

# Delivering affordable housing through planning policy

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On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London SW1E 5DU  
Telephone: 020 7944 4400  
Website: [www.communities.gov.uk](http://www.communities.gov.uk)

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## Summary

This research report considers a range of issues regarding the use and implementation of planning policies designed to address the need for affordable housing. The research was carried out in all local authorities of five English regions during 2000 and 2001, with the aim of examining the effectiveness of current planning policy as set out in Planning Policy Guidance 3: Housing (PPG3) and [Circular 6/98: Planning and Affordable Housing](#).

**Please note:** PPG3 has now been replaced by [Planning Policy Statement 3: Housing \(PPS3\)](#) which was published in November 2006.

## Order

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*The findings and recommendations in this report are those of the consultant authors and do not necessarily represent the views or proposed policies of Communities and Local Government.*

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## Preface

A key objective for the Government is to ensure that everyone has the opportunity of a decent home. Access to housing that is genuinely affordable to a wide range of people is an increasingly important issue in seeking to meet this objective. The planning system clearly has an important role to play.

In December 2001 the Department for Transport, Local Government and the Regions published a document entitled *Reforming Planning Obligations: delivering a fundamental change*, which is one of a series of consultation papers that together propose radical reform of the planning system.

The consultation paper sets out proposals to replace the present system of negotiated planning obligations with a tariff that will be set by local authorities in their local development plans and subsequently local development frameworks. It is anticipated that the provision of affordable housing will be a high priority in many plans and local frameworks.

This research report is an important contribution to the Government's on-going work to address the need for more affordable housing. It was carried out during 2000 and 2001 and examined the effectiveness of current planning policy guidance on affordable housing (set out in *Planning Policy Guidance note 3: Housing and Circular 6/98, Planning and Affordable Housing*).

The report addresses a range of issues in respect of the use and implementation of the policy across five English regions. Based on the findings, it includes examples of, and recommendations for, better practice in using existing policy guidance to best effect to deliver affordable housing.

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## **Executive Summary**

### **Aims and Objectives**

The report reviews how planning and affordable housing policies are being implemented and the ways in which affordable housing secured through planning policy is being delivered.

### **Research Methods**

Our research involved a scoping survey which considered the delivery of affordable housing through planning policy in all English regions. This was followed by a questionnaire that was sent to all local authorities in five English regions:

- London.
- The South East.
- The South West.
- The West Midlands.
- The North West.

A sample of 28 local authorities was then selected to act as case studies in the provision of affordable housing. In addition, three focus groups were held to discuss the findings with a wide range of stakeholders involved in the delivery of affordable housing.

The research was conducted between April 2000 and March 2001. It considers the following main areas, amongst others:

- Housing need.
- Planning policy and process.
- Legal agreements.
- Economics of development.
- Moving towards better practice.

### **Findings**

The findings of the research provide a very mixed picture throughout the country. We were unable to identify many examples of good practice, but through identifying issues raised by a number of authorities we have been able to suggest a better approach to the delivery of

affordable housing through planning policy.

## Conclusions

We have identified a number of concerns which have informed our recommendations towards better practice. These are considered below and in more detail in the body of the report. Chapter 14 of the report provides a summary of the better practice actions that we recommend.

### *Definition*

- Local authorities are not consistent throughout the country in defining affordable housing according to the definitions provided in PPG3 and *Circular 6/98*. There is a tendency, particularly in the south of the country, to equate affordable housing with social rented housing and not to consider the full range of alternatives that are available within this definition.
- Local authorities also need to provide a clear definition and link between income levels in their areas and property costs.

### *Housing Needs Assessments*

- Local authorities are not necessarily following government better practice advice in the compilation of their Housing Needs Assessments. Needs assessments need to be robust in order to provide a convincing case to regional Government Offices and housing providers. There is also little use made of inter-authority assessments when it is clear that a number of local authorities are all participants in a single housing market. Local authorities should regularly review the indices that establish housing need and inform planning policy in their areas.

### *Significance Of Affordable Housing Provision*

- Affordable housing features as an important issue in most of the plans examined. However, a clear definition of affordable housing is required in formulating planning policy and in providing mechanisms that will ensure that delivery is secured. Effective working relationships are required both within local authorities and between stakeholders involved in the delivery process.

### *Thresholds And Targets*

- Local authorities are feeling under pressure to secure affordable housing on as many sites as possible in order to attempt to satisfy housing need. There is pressure both to reduce thresholds for the inclusion of an element of affordable housing on development sites and

for the proportion of affordable dwellings to increase.

- However, many rural authorities are reluctant to set low thresholds on sites in villages with a population of 3,000 or less. There seems to be a general failure on the part of local authorities to recognise and act on this flexibility.
- Authorities, however, do need to establish a clear definition of housing need in their areas and to clearly quantify what that means. Authorities should provide a definition of affordability within their areas and demonstrate how that will be addressed by thresholds and targets within their areas. The statistics that make up this analysis should be regularly reviewed.

### *Supplementary Planning Guidance*

- SPG can sometimes be used by local authorities as a way of updating plan policy to reflect Government guidance, but without a corresponding amendment to local plan policy. SPG should only be used to provide more detailed support of planning policy. In some cases it may be appropriate to provide planning briefs for particular sites which can more clearly express the local authorities expectations for a particular affordable housing site.

### *Section 106 Agreements*

- There is a need for local authorities to adopt a clear and corporate approach to the negotiation of Section 106 agreements. Many agreements are protracted and therefore inhibit the delivery of affordable housing. We recommend that a draft Section 106 agreement is considered by planning committee at the same time as the planning application and that where possible registered social landlords (RSLs) who are to be involved in the delivery of affordable housing on a particular site should be a party to the agreement.

### *Economics Of Development*

- There is very often a lack of understanding by local authorities of the development economics involved in the delivery of affordable housing. We suggest that local authorities should develop a better understanding of income levels and development costs within their areas and that this would provide a stronger footing for them in the understanding of development economic appraisals.
- It is essential that the number of affordable housing units required on a particular scheme should be capable of being delivered without making the scheme uneconomic.

### *Use Of Commuted Sums*

- Exceptionally local authorities may prefer a commuted sum in lieu of on-site provision of affordable housing on a particular development site. In such circumstances the local authority should clearly state its reasons for this choice.
- The amount provided as a commuted sum should equate with the cost of on-site affordable housing provision. Sums should be accounted for and sanctions exist for repayment, should the sum not be used appropriately.

### *Working With Registered Social Landlords*

- It is appropriate for local authorities to provide a list of RSLs with whom they work to developers. However, we are concerned that this arrangement should not become too formalised such that it might result in deadlock between an interested developer and would be RSL. We would countenance the DETR and Housing Corporation to consider this matter.
- As stated above we believe that wherever possible RSLs should be a party to the Section 106 agreement which governs their delivery of affordable housing on a particular site.

### *Monitoring Of Delivery*

- There are few examples of effective monitoring of the delivery of affordable housing, but there is consensus that local authorities should achieve this aim. Ideally local authorities should be in a position to provide accurate figures of affordable housing provision and account for any commuted sums that have been provided in lieu of on-site provision.

### *Corporate And Collaborative Working*

- There is a need for better corporate working relationships between housing and planning departments and between local authorities and stakeholders. In areas of higher provision we often found that effective officer and stakeholder groups had been established.

### *Rural Issues*

- Little use appears to be made of the provision of *Circular 6/98* to allow local authorities to establish an appropriate threshold for sites to include provision for affordable housing in communities of less than 3,000.
- Local authorities need to carefully consider the location of affordable housing supply in rural areas. Housing Needs Surveys frequently do not provide a clear breakdown in favour

of provision in market towns or smaller communities.

- Local authorities should not be unduly constrained by planning designations in providing for exception sites if this favours sustainable locations.
- There is a problem of additional costs in providing affordable housing in rural locations. This frequently involves higher development costs and additional time taken in the negotiation and delivery of sites.
- The mortgagee-in-possession clause does not seem to be affecting the delivery of affordable housing on exception sites.

We particularly welcome the number of rural authorities who work collectively in formulating affordable housing policy and in its delivery. Collaborative working allows rural authorities to share experiences and provide a collective approach to affordable housing opportunities.

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## Chapter 1 - Introduction

### 1.1 Background

**1.1.1** This report has been prepared in response to a brief provided by DETR to examine the delivery of affordable housing through planning policy. The background to the brief sets out the need to explore the Government's planning and housing policy as set out in PPG3: Housing and as supplemented by *Circular 6/98, Planning and Affordable Housing*.

**1.1.2** The study undertook to examine both mainstream housing provision which ensures that new housing development incorporates a reasonable mix and balance of housing types and sizes, including affordable housing and to consider affordable rural housing provision through the use of 'exception' policy that enables planning authorities to grant planning permission for land within or adjoining existing villages which would not normally be released for housing.

**1.1.3** The aim of this report is to identify and investigate any difficulties faced by local planning authorities, house builders and RSLs in interpreting and implementing parts of the advice in PPG3 and *Circular 6/98*.

### 1.2 Aims and Objectives

#### *Housing Need And Planning Policy*

**1.2.1** The report reviews how planning and affordable housing policies are being implemented and the ways in which affordable housing secured through planning policy is being delivered. It looks at the relationship between housing need and planning policy and how this information is obtained and used to inform plan making.

#### *Planning Process*

**1.2.2** The report considers the process by which provision is made for affordable housing through planning policy, involving both on-site provision and where alternative arrangements are made. It looks at the way rural exception sites are identified and how housing need is identified and met.

#### *Legal Agreements*

**1.2.3** The report examines the use of legal agreements used to secure and control the occupation of affordable housing and evaluates their effectiveness. It also looks at the time taken to prepare Section 106 agreements.

#### *Towards Better Practice*

**1.2.4** The report considers the various parties involved in providing affordable housing including the local authorities, house builders, land owners, RSLs, local communities and funding institutions and identifies areas that give rise to concerns and identifies better practice

to help overcome them.

## 1.3 Key Issues

1.3.1 The report focuses on a range of key issues:

- the content and use of housing needs assessments and the way in which they have been used to influence planning policy;
- the way in which 'affordable housing' is defined by local authorities;
- the methods and processes by which affordable housing is delivered;
- the time taken to negotiate and agree provision of affordable housing, occupancy controls and Section 106 agreements;
- the relationship between RSLs and local authorities in the delivery process;
- the extent to which practice varies across and within regions;
- the way in which local authorities monitor the delivery of affordable houses;
- the way in which nomination agreements and occupancy controls are used and controlled through planning conditions and Section 106 agreements;
- how the nature of individual application sites is used to decide whether to include an element of affordable housing, the amount of affordable homes to be provided and the most appropriate mix of general and affordable housing types;
- the nature of the interface involved between all the parties negotiating and delivering affordable housing;
- how the delivery of affordable housing through planning policy relates to the needs of the Housing Corporation and local authorities to plan the spending of social housing grant (SHG);
- the circumstances in which developers and local authorities agree to the provision of off-site arrangements in preference to on-site provision;
- the way in which financial and other contributions are calculated and whether such negotiations are effective in providing affordable housing elsewhere;
- the way that land for rural exception sites is identified and secured and the extent to which policies of restraint unduly limit this process;
- the contribution of land owners, local communities and funding agents to the rural exception process; and
- the extent to which problems arise in securing private finance for rural exception schemes.

## 1.4 Methodology

**1.4.1** Our approach to this project involved the examination of the provision of affordable housing through a regional framework. Five representative regions were identified: London, the South East, the South West, the West Midlands and the North West. A questionnaire was sent to each authority within these regions to examine their approach and experience of providing affordable housing. The questionnaire drew a distinction between mainstream provision and affordable housing in rural areas provided on allocated sites in local plans or through a rural exception policy.

**1.4.2** At the same time a scoping survey was undertaken by the study team of all the English Regions to ensure that the regional analysis that was being undertaken was representative of the country as a whole. Key examples of practice were identified in this analysis and used later to illustrate better practice. H.I.P. returns for 1998-1999 were also used as a checking mechanism to underpin the results gained by the questionnaire.

**1.4.3** The questionnaire was followed by a series of case studies that examined the experience of local authorities in greater detail. 28 case study authorities were chosen to provide a broad mix of experience both between and within the regions and including metropolitan, urban, suburban and rural authorities. These case studies are used to examine and illustrate better practice.

**1.4.4** A series of three focus groups was held to explore the custom and practice of delivering affordable housing through planning policy. There was a wide range of interest present at the focus groups including RSLs, house builders, the NHF, the Housing Corporation, local authorities, the HBF and the Countryside Agency. The focus groups brought lively and informed debate to the study.

## 1.5 Format of the Report

**1.5.1** The report is divided into five main sections. The first is concerned with local plan preparation and examines the definition of affordable housing; the quality and use of Housing Needs Assessments; the significance of affordable housing provision; thresholds and targets for the delivery of affordable housing and the role of supplementary planning guidance (SPG).

**1.5.2** The second section of the report is concerned with the implementation of affordable housing provision. This includes the quality and use of Section 106 agreements, securing an appropriate mix through affordable housing provision and working with RSLs.

**1.5.3** The third section of the report is concerned with delivery and includes an analysis of monitoring delivery, corporate and collaborative working and an examination of the affordable housing product.

**1.5.4** Whilst each of these three sections includes an analysis of the rural perspective, the fourth section of the report considers rural issues in the round. It looks at the particular issues

that effect the provision of main stream affordable housing in rural areas and contains an examination of the workings of rural exception policy.

**1.5.5** The final section of the report draws together the key themes and provides a summary of the key points for better practice identified in the main body of the report.

## **1.6 Definition of Rural**

**1.6.1** We were conscious throughout the research programme of the need to identify and examine issues of particular interest to rural areas. However, we found the definition of rural to be a complex issue since few authorities can be described as entirely rural and many urban and metropolitan authorities include rural hinterlands. On the basis of the questionnaire results, we have classed authorities as rural if they have identified at least 30% of their area best defined as rural. We considered those with 60% or more of their area defined as rural as being the most rural authorities. However, within this definition we have also drawn a distinction between agricultural rural and those rural areas that exhibit a more mixed local economy.

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## Chapter 2 - Definition of Affordable Housing

### 2.1 Introduction

**2.1.1** This chapter is concerned with the definition of affordable housing. It considers this in two ways. First, from the perspective of the guidance in *Circular 6/98*; and second, from the perspective of the local authority defining 'affordable housing' on the basis of local market conditions and housing need. We examine a number of important issues: the role of policy in informing the definition of affordable housing in adopted and emerging local plans. There is an emphasis within this analysis on including both low-cost market housing and (subsidised) social housing. We further review the way in which local authorities arrive at a definition of affordable housing and provide key examples from the regions. A brief focus is given to development outcomes over the past two years in the light of the effects of the Circular.

**2.1.2** In practice we see that the majority of affordable housing provided through the planning system is social housing for rent. However, there are significant regional variations to this position to suit local market conditions and different housing needs challenges.

### 2.2 National Policy Position

**2.2.1** A key guidance statement with respect to how affordable housing may be defined is contained in *Circular 6/98*; as follows:

*'The policy should define what the authority regards as affordable, but this should include both low-cost market and subsidised housing, as both will have some role to play in providing for local needs'*([see endnote 1](#))

**2.2.2** 'Affordable housing' is thus housing that is defined as being 'affordable' in the local context, and which covers a spectrum of outcomes including 'low cost' and 'subsidised'. PPG3 emphasises the role of the local authority in defining 'affordability' with specific reference to incomes, house prices and rents:

*'Local plan policies for affordable housing should.....define what the authority considers to be affordable in the local plan area in terms of the relationship between local income levels and house prices or rents for different types of households'*([see endnote 2](#))

**2.2.3** The terms low-cost market and subsidised housing provide the scope for local authorities to plan for developments including a range of housing tenures. However, planning policies may not specifically define any one, or a combination of, housing tenures as being the affordable housing that is required:

*'Planning policy should not be expressed in favour of any particular form of tenure. Therefore, the terms 'affordable housing' or 'affordable homes' are used in this Circular to encompass both low-cost market and subsidised housing (irrespective of tenure, ownership - whether exclusive or shared - or financial arrangements) that will be available to people who cannot afford to rent or buy houses generally*

available on the open market'(see endnote 3)

**2.2.4** An aim of the planning and affordable housing policy is to achieve mixed communities with a balance of housing types and tenures:

*'The Government believes that it is important to help create mixed and inclusive communities which offer a choice of housing and lifestyle. It does not accept that different types of housing and tenures make bad neighbours. Local planning authorities should encourage the development of mixed and balanced communities: they should ensure that new housing developments help to secure a better social mix by avoiding the creation of large areas of housing of similar characteristics'(see endnote 4)*

## 2.3 Findings and Issues

### Meeting The Requirements Of The Guidance And Extent Of "Compliance"

**2.3.1** Local authorities were asked whether a definition of 'affordable housing' was included in their adopted local plan. [Table 2.1](#) shows the results for the five regions and for the individual regions. There were 65 authorities in total with an adopted local plan. From these (65), 37 (56%) stated that they included a definition of affordable housing in the adopted plan, whilst 11 stated that they did not include a definition in the plan. A significant number of authorities with an adopted local plan did not fill in either of the "have a definition" or "don't have a definition" boxes in the postal questionnaire. This number was particularly high in the South East. A very small number of authorities filled in the box stating that they included a definition of affordable housing in their adopted local plan, but it was later discovered that they did not have such a plan.

<b>Table 2.1: Authorities with an Adopted Plan</b>			
	<b>With Definition</b>	<b>Without Definition</b>	<b>Not Stated</b>
Gr London	6	2	1
North West	2	3	2
South East	14	1	9
South West	8	1	1
West Mids	7	4	4
<b>All</b>	<b>37(56%)</b>	<b>11</b>	<b>17</b>

**2.3.2** Local authorities were also asked whether a definition of affordable housing was included in their emerging local plan. [Table 2.2](#) shows the results for the five regions and for the individual regions. From those (39) authorities stating that they had an emerging plan, virtually all (but three) stated that they included a definition of affordable housing.

<b>Table 2.2: Authorities with an Emerging Plan</b>		
	<b>With Definition</b>	<b>Without Definition</b>
Gr London	6	1
North West	3	2
South East	13	0

South West	7	0
West Midlands	7	0
<b>All</b>	<b>36 (92%)</b>	<b>3</b>

**2.3.3** The percentage increase of those including a definition of affordable in emerging plans vis-à-vis adopted plans is significant. In the adopted plans, only 56% of authorities included a definition of affordable housing, whilst in the emerging plans, 92% of authorities included an affordable housing definition. There is thus an improving awareness of the need to deal with affordable housing provision via a definition. This also appears to be the case in the North West, where adopted plans are less likely to include a definition, but emerging plans are more likely to do so. However, it may be expected that a low absolute number of authorities in the North West region will include a definition of affordable housing.

**2.3.4** The guidance places considerable emphasis on the provision of low cost and subsidised affordable housing. Local authorities were asked whether they included both affordable housing products in their definition of affordable housing with respect to both adopted and emerging plans. [Table 2.3](#) shows the comparison. The figures outside the brackets refer to the number of authorities including the terms low cost and subsidised in their definition of affordable housing (for adopted and emerging plans). The figures inside the brackets refer to the number of authorities having a definition of affordable housing (in adopted and emerging plans).

<b>Table 2.3: Definition of Affordable Housing</b>		
	<b>Authorities including 'Low-Cost Market' and 'Subsidised' housing within definition.</b>	
	<b>In adopted plan</b>	<b>In emerging plans</b>
Gr London	3 (6)	4 (6)
North West	2 (2)	3 (3)
South East	10 (14)	8 (13)
South West	7 (8)	5 (7)
West Mids	6 (7)	6 (7)
<b>All</b>	<b>28 (37) (76%)</b>	<b>26 (36) (72%)</b>

**2.3.5** [Table 2.3](#) should be seen in the light of previous paragraphs. The main conclusion to draw is that although emerging plans are more likely to include a (per se) definition of affordable housing than adopted plans, they are no more likely to include a definition of affordable housing related to low-cost market or subsidised provision. Otherwise stated, whilst affordable housing policy is becoming more defined, there is no commensurate propensity to define low cost and subsidised affordable solutions.

**2.3.6** Of course, it all depends on the sample used for the table. But it is instructive to note that the local authorities in the North West and the West Midlands (the most northerly regions in our study), are more likely to include the low-cost market and subsidised option in their definition (whether considering adopted or emerging plans) than regions in the south. Willingness to include low-cost market housing in the definition of affordable housing in Greater London and the South East in particular, is considerably less, if the findings of the survey are to carry weight.

**2.3.7** The interviews we carried out helped to illuminate the reasons for these trends. In

Greater London the definition of low-cost market affordable housing appears to be causing some problems. One London authority commented that low-cost market housing is not a reality. House prices are so high that all market housing is beyond the means of households in need - and of most key workers also. The Inspector at the UDP confirmed that this was so and that it was appropriate to exclude low-cost market from the definition due to local circumstances. Other authorities in the Greater London region also saw affordable housing as being subsidised (but not) low cost.

**2.3.8** Local authorities in more pressured housing markets, therefore, are less enthusiastic about low-cost market housing, believing that those in need should be best served with social rented housing. In areas where house prices are relatively low, however, the provision of new housing may be perceived as contributing to wider economic objectives and there may be more ready acceptance of the role of low-cost market housing in retaining skilled people and strengthening the local economic base.

**2.3.9** We are aware that many local authorities are supposedly against a definition of affordable housing that includes low-cost market housing and although their formal position may be in line with the Circular, they do not wholly accept that a mix of different types of affordable housing is appropriate.

**2.3.10** Similar arguments have been put forward by other housing organisations. For instance, the National Housing Federation, working with the Chartered Institute of Housing, Room, the National Council for Housing and Shelter have put forward a 'National Blueprint for the Delivery of Affordable Homes through the Planning System'. The Blueprint stresses in particular, problems associated with the inclusion of low cost housing within the definition of affordable housing. It suggests that three unsatisfactory forms of provision result from the inclusion of low cost housing in the definition of affordable housing:

- (i) 'smaller houses for sale at full market prices';
- (ii) 'housing which is clearly not 'affordable' to local people, even though it is less expensive than other housing on the site'; and
- (iii) 'housing which is sold at full market prices at resale therefore losing the benefit of any discount and loss of control over future occupants'.

**2.3.11** Virtually all authorities (35 from 37) having a definition of affordable housing in their adopted local plan had undertaken a housing needs assessment. This of course, leaves two with a definition, but no needs survey on which to base it.

#### *Arriving At The Definition Of Affordable Housing*

**2.3.12** Circular 6/98 plays a key role and provides the starting point for defining affordable housing in a significant number of cases. Both the questionnaire results and the case study interviews have shown that local authorities are relying to a large extent on central government guidance: in the postal survey 35% of authorities stated that their definition was based on 'circulars' and 'government planning policy guidance'.

**2.3.13** Authorities in the West Midlands referred in the first instance to the region; in particular, to the West Midlands Local Government Association (WMLGA) guidance on 'affordability'. Further feedback typically referred to, for example: '*housing need (locally defined)*', '*UDP/Local*

*Plan inspector's report*, 'adaptation from other Boroughs', and 'by consensus - those not able to buy or rent in the open market'. This latter ('those excluded from the open market') was a key response to the same question we posed in the interview rounds.

**2.3.14** It is significant that only one authority in the postal survey pointed to a housing needs survey as the basis for defining affordable housing in their local plan. The picture is not much different with respect to emerging plans, where only two authorities sourced their affordable housing definition from the housing needs survey. This implies that, for most authorities, local circumstances set the context for delivery, but the definition of affordable housing is framed either directly by reference to government guidance or through reliance on 'custom and practice'.

#### *Scope Of The Definition In Practice*

**2.3.15** The actual wording of the definitions used by authorities, reflects the strong reliance placed by authorities on Circular 6/98. Authorities are adopting very broad-based definitions as these typical examples from their (adopted and/or emerging) plans illustrate:

*'Housing for those residents in housing need and key workers essential to the Central London economy whose incomes are insufficient to afford adequate housing' (London Borough agreed policy: 1998).*

*'Housing which is affordable to those householders who cannot afford either rent or purchase housing in the open market.....low cost market housing may be considered as affordable housing but.....the price will need to be discounted' (South West Rural Authority - Local Plan Review Deposit Plan: 1998).*

*'Both low-cost, market and subsidised housing, irrespective of tenure, ownership, or financial arrangements, that will be available to people who are unable to resolve their housing needs in the local private sector market because of the relationship between housing costs and income.'* (South East urban authority - Deposit Plan: 2001).

*'Housing provision of a type and standard within the financial means of people who are in unsuitable accommodation for their needs or who are homeless. These can include both subsidised and low-cost market housing; the suitability of the various forms of housing will be judged on the ability to meet need. Affordability will be assessed, at the time of negotiation, in relation to local market conditions and the financial indicators of those in housing need' (West Midlands Local Authority District Local Plan: 2000).*

*'Affordable housing is defined as that which is accessible to people whose income does not enable them to afford to buy or rent property suitable for their needs in the free housing market' (North West Authority Deposit Draft Local Plan: 2000).*

**2.3.16** Authorities seem reluctant to be more precise (whilst still avoiding tenure-specific definitions) and examples of policies which narrow down the range of costs more precisely than the generalised approach illustrated above are very limited. One of the more precise

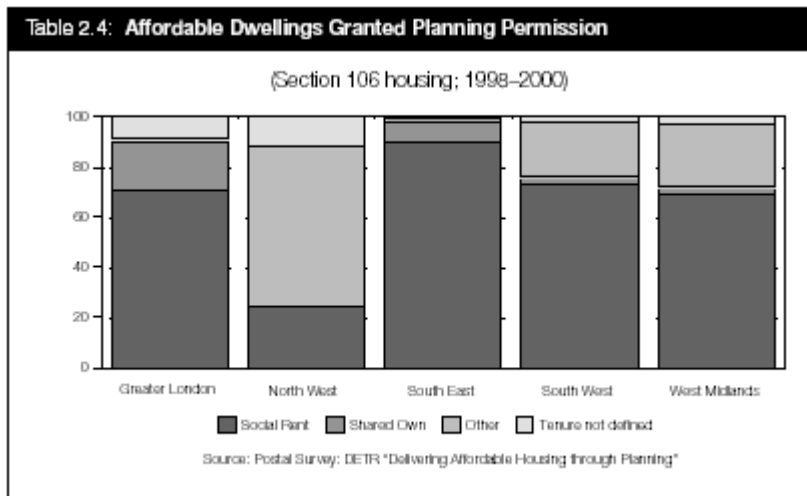
examples is:

*'...in respect of housing for sale ....not more expensive than that able to be purchased with a 95% mortgage equivalent to three times the average of the annual gross full time earnings for males and females on adult and non-manual adult rates for X. ....housing for rent not more expensive than ...25% times the average of the gross weekly full time earnings for males and females on adult and non-manual adult rates for X' (South West Rural Authority - District Plan, 1998).*

### Delivering Affordable Housing: From Definition To Product

**2.3.17** Our research showed that a range of affordable housing tenures and products are being delivered by local authorities via the planning system. The figure below shows the percentage breakdown by tenure for affordable dwellings granted planning permission. It shows, for each region, the percentage of dwellings in each tenure granted planning permission via Section 106 agreements. Thus, for example, 71% of all Section 106 affordable dwellings in Greater London were for rent.

**2.3.18** The figure provides evidence that a range of affordable housing tenures and products is being produced but with an emphasis on social rented development.



**2.3.19** The figure shows, that for the period 1998-2000, permissions for dwellings for rent predominated in all regions except the North West. Quotas of affordable housing for rent have been highest in the South East, the South West, and (to a lesser extent), in the West Midlands. Section 106 schemes are delivering over 90% affordable housing for rent in the South East, whereas in the North West, they delivered only 25% for the period. In the North West, other tenures make a very significant contribution: 63% of all dwellings delivered via Section 106 agreements.

**2.3.20** When a regional comparison is made, the figure provides evidence that a range of affordable housing tenures and products are being produced to suit market conditions. It is a good demonstration that the guidance on the definition of affordable housing is helping to provide different solutions under different regional market conditions.

**2.3.21** It is clear that the favoured solution to affordable housing in more pressured housing

markets (the South East and Greater London in particular), is social rented housing. In the North West, by contrast, other solutions are favoured. From our interviews we suggest that this form of affordable housing is, to a large extent, discount market housing for sale. This development provides, in principle, authorities with a continuous flow of affordable private homes, regulated through occupancy agreements. Examples of this type of solution also exist in the South East, although there it becomes developed less as a response to supply and demand, but more as a response to a lack of capital funding for other types of affordable housing.

**2.3.22** The conclusion is thus that the Circular's definition is successful in allowing for variety and flexibility of outcome between regions. Whether, however, there should be more (or less) of a particular tenure of affordable housing within any given region, is open to question and beyond the scope of this section.

**2.3.23** To evaluate how local authorities are taking forward definitions of affordable housing and translating them into developments, it is necessary to have some analysis of the way in which definitions are derived from housing needs assessments. As most authorities do not transparently use needs assessments as a basis for defining affordable housing (paragraph 2.3.14), it is ultimately unsound to conclude that definitions of affordable housing are connected very strongly with the affordable housing products which ensue. Indeed, there is substantial evidence from the interviews carried out, that local authorities, in practice, quote the standard definition guidance and then proceed on the basis of 'what (they) can get'.

**2.3.24** There is further evidence of local authorities adopting a wholly pragmatic view on the definition of affordable housing. Some authorities will be drawn from a situation in which they have prescribed social rent, to another situation where low-cost market is delivered. This has not been a function of a fundamental re-think on the definition of affordable housing, but a simple reaction to the fact that a housing association does not have the necessary funding for a scheme for social rent.

**2.3.25** Specific categories of affordable housing are difficult to define. Most notably in the case of key workers. The term key worker is relatively new at the time of our research and local authorities are now only just beginning to come to terms with its implications for practice. Key worker housing, has, since the Hillingdon Hospital case, been recognised as affordable housing, although the justification for key worker housing has to be set in the context of general affordable needs.

## **2.4 Towards Better Practice**

**2.4.1** What is the benchmark for good practice in defining affordable housing? We suggest that there are two main issues to focus on: (a) better practice in the way in which local authorities allow the inherent flexibility of the definition in *Circular 6/98* to find its way through to flexible affordable development solutions; and (b) better practice in the way in which local authorities reflect, in their bespoke definitions of affordable housing, local market conditions and the findings of their housing needs assessments.

**2.4.2** With respect to (a), the research has uncovered plenty of better practice. It is clear from both a regional perspective, and from an individual site perspective, that the intentions of the Circular (to allow local interpretation of need) are being reflected in very different affordable

housing products. In the south of England, authorities concentrate (rightly or wrongly; a question of housing needs interpretation) on social rented housing. In other regions, authorities use the broad definition differently and in such a way as they think befits local market conditions. An example is given in the following paragraph.

**2.4.3** In the many authorities in the North West (and we assume it follows to some extent, in other northern regions), affordable housing is defined broadly and flexibly. There is an implicit recognition in the scope of the definition that market conditions are less likely to support social housing for rent; thus a definition of affordable housing typically allows for shared ownership, discount market for sale as well as housing association rented. The discount market for sale approach, as identified in two authorities in the North West, allows for a continual flow of affordable housing to be secured as affordable home ownership units. The units are originally sold by the developer at, typically, 80% of market value to a purchaser in need of an affordable dwelling. Via a Section 106 agreement, stipulating nomination rights to the local authority, the dwelling can be continually resold to the market at a discount price. In terms of policy formulation and a definition of affordable housing, this is an evolving process. There is still some uncertainty on the part of the authorities themselves as to the legality of the process in particular with respect to the way in which long term affordable supply is secured. There is hence some reluctance to detail (although currently SPG provides a framework) the precise implications of defining affordable housing as being discount market for sale.

**2.4.4** The definition in the Circular allows for many different forms of affordable housing within the same development. In urban regeneration scenarios, where there is a premium attached to bringing vacant sites into use, a more informal approach to the definition of affordable housing may constitute good practice. Imperial Wharf, within the London Borough of Hammersmith and Fulham is one such case. At this development, a 50% affordable housing quota has been achieved, but this includes six affordable housing products: housing association rented, shared ownership, discount market for sale (including key worker), elderly affordable, student housing and discount rented housing in perpetuity. Such a broad ranging approach to defining what is included within the definition of affordable housing may be counter-productive to negotiations in many cases. However, it is clear that where both local authority and developer wish to see a particular site bought back into use, the current definition of affordable housing allows for a flexible basis for planning and development.

**2.4.5** We feel that there is less good practice with respect to (b), a robust process of defining affordable housing through national guidance and the particularities of the local housing market and the findings of the needs survey).

**2.4.6** It is fair to say that most local authorities follow, rather slavishly, the wording of the guidance when defining affordable housing. Many bolster the necessary words with references to housing need meeting those excluded from the market. Some local authorities in the South of England deliberately and via inspectors, exclude low-cost market housing from their definition. But these are the discerning few. Thus there is considerable scope for tightening the process which reflects the framework definition of the Circular, and the very specific local market situation as it affects need.

**2.4.7** It is very evident that this tightening or better practice process must begin with a much more robust procedure for translating the findings of housing needs assessments into local plan definitions of housing need. The research shows, surprisingly, that housing needs

assessments are not a stated first port of call when it comes to defining affordable housing.

**2.4.8** A much wider awareness of the provisions in the Circular which allow for greater precision in benchmarking the definition against costs and incomes is required. Only a very few authorities are working in this way. Greater clarity about the cost of affordable housing being sought would allow developers to better plan ahead and to respond to local needs. If authorities can justify very low defined housing costs then we believe that it is better for them to be clear about this from the start than to set out a very general framework which is circumvented when site negotiations begin.

**2.4.9** Because of the opaqueness of the process by which affordable housing is defined by local authorities, we have no real way of evaluating whether definitions of affordable housing are having the desired effect. We know that *Circular 6/98* is working in so far that across the country there is variety of provision which reflects different market conditions. What we cannot accurately gauge, is whether differences in outcome are a precise reflection of differences in market conditions. If they are not, it is because local authorities are paying insufficient heed to the process by which needs are translated into a definition of affordable housing.

### **Endnotes**

- 1 Circular 6/98, Planning & Affordable Housing, Paragraph 9 a) (DETR 1998)
- 2 Planning Policy Guidance Note 3: Housing, Paragraph 12 (DETR 2000)
- 3 Circular 6/98, Paragraph 4
- 4 PPG3, Paragraph 10

## Chapter 3 - Housing Needs Assessment

### 3.1 Introduction

**3.1.1** This chapter looks at the role of housing needs assessments in framing plan policy on affordable housing. It suggests that whilst coverage of housing needs surveys is now almost universal, there is still room for improvement in quality and coverage, particularly with regard to the assessment of housing need in rural areas and analysis of housing demand across travel to work areas. DETR has recently produced guidance on how to undertake a housing needs study and local authorities would do well to study this closely.

**3.1.2** The links between housing needs survey and plan policy on affordable housing are far from straight forward and involve wider political and resource judgements than simple assessment of need. It is tempting for local authorities to be guided either by custom and practice or by the wider experience of their housing needs survey consultants when setting targets for affordable housing provision, but it is important to take into account local circumstances in order to produce a policy which is best suited to the needs of the area.

### 3.2 Scope of Participation in Needs Assessment: the National and Regional Picture

**3.2.1** The questionnaire results indicate that 90% of local authorities surveyed have completed a housing needs survey. 63% of local authorities are either currently updating their housing needs assessment or planning to do so. Only two local authorities (one in the North West and one in the South West) have not undertaken a housing needs survey and have no plans to do so.

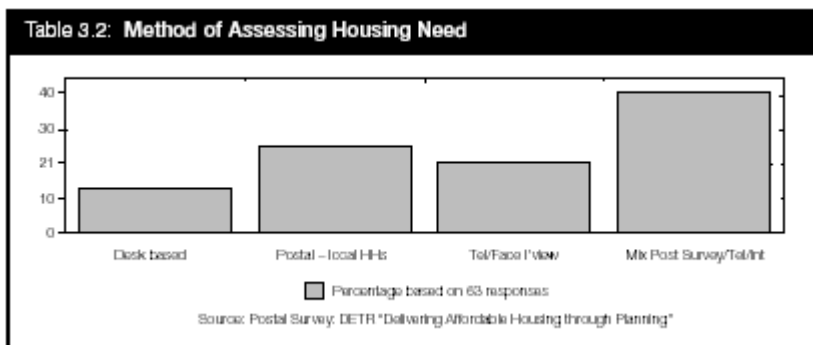
**3.2.2** There were slight regional variations. In the South East Region all (27) authorities have carried out an assessment. In the West Midlands all but one authority had completed an assessment. In London seven out of nine authorities had done so. The region with the lowest participation was the South West, although there only three authorities (from 14) had not completed an assessment.

<b>Table 3.1: Housing Needs Assessments</b>						
	<b>Londo n</b>	<b>South East</b>	<b>South West</b>	<b>West Midlands</b>	<b>North West</b>	<b>Tota l</b>
Carried out HNA	7	27	11	13	9	67
Currently updating HNA	5	6	8	6	1	26
Planning to update HNA in next 2 years	0	14	4	3	0	21
<b>Total sample</b>	<b>9</b>	<b>27</b>	<b>14</b>	<b>14</b>	<b>10</b>	<b>74</b>

**3.2.3** Our postal survey tells us that a range of approaches is used in assessing housing

needs. 63 responses were made to four possible methods of doing housing needs assessments. Most respondents treated the options as mutually exclusive, with only four authorities ticking more than one box.

3.2.4 From the 63 responses, the most frequent approach (41% of all responses) to assessing housing need was a 'mix of postal survey/telephone and face-to-face interviews'. Next most frequently used were a 'postal survey of local households' (25% of responses), and 'telephone or face-to-face interviews with a sample of residents' (21%). 'Desk-based assessments' were not so frequently used (13%) 'Other methods' (12 responses in total) were commissioned research, focus group discussions, market data based approaches, and a 'housing register with RSL partnership' approach.



### 3.3 National Policy Position

3.3.1 The policy guidance is set out in a number of key documents: PPG3, *Circular 6/98* and *'Local Housing Needs Assessment: a Guide to Good Practice'* prepared by Heriot-Watt University (DETR, 2000).

3.3.2 The key policy statements are contained in the following:

*'Any local plan policy for affordable housing should be based on a good understanding of the needs of the area over the period of the development plan. The need should be clear from the assessments used to develop the authority's housing strategy .....*

*Assessments will need to be rigorous, making clear the assumptions and definitions used, so that they can withstand detailed scrutiny. Double counting of those in need must not occur and full account must be taken of affordable housing already available. Assessments should usually include factors such as: local market house prices and rents, local incomes, the supply and suitability of existing local affordable housing (including both subsidised and low cost market housing) the size and types of local households and the types of housing best suited to meeting these local needs.'* ([see endnote 5](#))

### 3.4 The DETR Guide to Local Housing Needs Assessment

3.4.1 The main points from *'Local Housing Needs Assessment: A Guide to Good Practice'* are

summarised below:

- *survey results should be validated by comparing household profiles with data from the Census, demographic estimates and local administrative records;*
- *where particular needs or problems can be measured objectively this should be done in addition to collecting subjectively recorded problems;*
- *where existing households are living in unsuitable housing, it is important to try to assess which of these could find solutions in situ or by moving within their current tenure;*
- *affordability should be assessed by relating appropriate measures of income to entry level threshold house prices and rents, distinguishing different levels or bands of affordability relevant to different possible solutions;*
- *the amount of new household formation should ideally be checked against past rates and demographic estimates;*
- *the characteristics (including income/affordability) of new households should be based mainly on the profile of actual recent new households;*
- *general needs surveys can make a contribution to assessing the needs of certain groups for specialised housing and/or support, particularly older people and people with disabilities;*
- *projections of housing need should not rely solely on surveys but should draw on demographic, economic and administrative data; and*
- *assessments of need relative to supply should be disaggregated by size/type of dwelling and by major geographical sub-areas, but there are limits to the ability of surveys to provide reliable data at small area level.([see endnote 6](#))*

**3.4.2** Most surveys in our research were carried out before the DETR Guidance was issued in 2000. Local authorities were aware of the guidance, but had not yet sought to put it into effect, although most had sought advice from their consultants as to whether an extant housing needs survey conformed with the new guidance.

**3.4.3** Developers interviewed were very critical about the standard of housing needs surveys. Their criticisms centred on:

- Assumptions that existing households in housing unsuited to their needs would not free up a property if they moved to alternative accommodation;
- Poor quality income data when assessed against other statistical sources. Minimal data on equity; and
- Assessments of demand for housing from new households based on the aspirations of potential concealed households rather than on actual new household formation.

**3.4.4** It was their view that these methodological weaknesses led to overstatement of the need for social rented housing and under-estimation of the need for other types of affordable housing.

*'90% of the time it's for rent, and other forms of tenure are ignored or even not tolerated by comparison'.*

*'Most local authorities are only considering low cost rent and a small element of shared ownership'.*

*'Needs assessments appear to ignore that middle range of people'.(see [endnote 7](#))*

**3.4.5** It is clear from our discussions with developers that not only are they unhappy with the outcomes of housing needs assessments, but also with the process by which these get translated into plan policy.

## **3.5 Findings and Issues**

### *Localised Housing Need Issues In Rural Areas And Other Localised Housing Markets*

**3.5.1** Evidence from the case studies indicated that rural authorities (and some urban authorities) were concerned to identify housing need for specific locations within the district. Interviewees commented that successful rural housing policies required information about need in particular villages as well as in market towns.

**3.5.2** The DETR guidance on local housing needs assessment recognises the particular needs of rural areas:

*'The typical situation of many rural districts differs from that in many urban areas in a number of respects. Examples include the low existing share of social rented housing and the low rates of turnover supply within that housing. Remaining social rented housing is often in reasonable condition and popular. Local working households may not be highly paid, but have to compete with commuters, retirement migrants and second home buyers in a buoyant private market. Private sector housing which is in poor condition may be common, but scattered rather than concentrated in meaningful potential renewal areas. Geographical dispersion means that issues of locational connections, constraints and preferences are very important. There are also direct knock-on effects into other service areas, as for example when the lack of rehousing opportunities for young people in a village may mean the decline and closure of the local primary school.'*

*These characteristics tend to have an impact on the balance of housing needs assessment activities. There is more emphasis on new provision relative to existing stock condition compared with many urban authorities and more emphasis on the use of the planning system to secure that new provision, including through exception sites. Geographical disaggregation of assessments is essential, but the*

*limited resources of typically smaller rural authorities make conventional interview surveys ineffective as a means of giving this coverage. Hence there is more interest in postal and self-completion surveys, including those involving local communities themselves. Issues of vacant housing and second homes, and of involving the private rented sector, may be more important.'* ([see endnote 8](#))

**3.5.3** There are examples of good practice in carrying out rural housing needs studies and we quote one of these below.

#### **Case Study 1**

Housing needs assessments carried out by the Research and Policy Unit of Sussex Rural Community Council in districts such as Horsham, Mid Sussex and Worthing. The approach adopted aims to provide a blueprint for assessing housing needs in (rural) areas by defining the level of sample cover required in larger and smaller communities. This level of cover is suggested to be a 'desirable minimum of 1000 households for any given community, and a target optimum of 2000'. This methodology involves a questionnaire being sent to 100% of households in the smaller rural parishes combined with a targeted questionnaire to the larger parishes. The methodology places greater emphasis on the random sample size rather than the percentage sample as a way of assessing needs in rural areas. This approach is suggested to be able to provide a fully representative overview of housing needs in the district without the requirement for full scoping of needs in larger communities and the contingent necessary follow up interviews. Secondary data sources (e.g. Census) are used to ensure that the sample of households in the larger settlements are representative of the population as a whole. The process of housing needs assessment is further highlighted in 'A Guide to Good Practice: Affordable Housing for Rural Communities' (Sussex Rural Community Council).

#### *Using Housing Needs Surveys In Areas Of Low Demand*

**3.5.4** Slightly different issues arise in areas of low demand. But here too housing needs surveys can provide useful market information. The response of one local authority in the North West sets out the nature of the policy issues to be faced.

*'In summary the Council has, to date, not sought to implement the UDP policy on affordable housing for the following reasons:*

- the Council commissioned local housing needs survey has not provided conclusive evidence of affordable housing needs;*
- in areas where affordable housing needs have been identified (based largely on local housing waiting list indicators) suitable sites have not come forward for development; and*
- in areas where suitable sites have come forward for development ((i.e. the south of the Borough) the extensive pool of very cheap second hand housing (at prices of less than £20,000) has meant that there is no need to provide affordable housing'.*

**3.5.5** The DETR Guidance on Housing Needs Assessment refers to the benefits of 'small area analysis of existing data and surveys targeted on regeneration areas'(see [endnote 9](#)) in order to give a more focused approach than a district wide housing needs survey.

**3.5.6** The case study below shows how one local authority in the North West has used the Housing Needs Survey to identify a shortage of affordable one and four bed units as well as a shortage of affordable housing in rural parts of the Borough against the crude backdrop of an overall surplus of affordable housing. The HNS also explores the rationale for seeking a financial contribution to renovation of the existing social stock from developers of new market housing schemes.

### **Case Study 2**

Based on estimated need for affordable housing, the assessed supply in the Borough and the analysis set out in this Report, our findings are as follows:

In the longer term to 2006 there will be a likely demand from new, emerging households for 1,680 units of affordable housing. An estimate as to the likely supply of affordable housing in the same period, which must be viewed with caution, results in a crude over-supply of 6,712 dwellings.

- there appears to be an under-supply of affordable four bed properties;
- there appears to be an under-supply of affordable housing in rural parts of the Borough;
- the highest total need for affordable housing is for one bed properties;
- total future household demand to 2006 and 2011 is estimated to be greatest for one bed properties;
- a high proportion of smaller dwellings built since 1991 have been affordable;
- in total numbers, there have been a low number of both open market and affordable one bed dwellings completed since 1991; and
- as both a proportion and in total numbers, there has been a low number of affordable 4+ bed dwellings completed since 1991.

From these findings, we have reached the following conclusions as to

local plan policy:

There is a need for a new local plan policy to encourage the provision of more smaller dwellings in the Borough. This is to meet the absolute need for smaller affordable and open market properties that it is estimated will occur in the Borough in the local plan period and beyond. The need for such a policy is reinforced by the low level of provision of both open market and affordable one bed dwellings since 1991.

However, the Housing Needs Study and our Report has found that there are deficiencies in the current stock of housing in the Borough, particularly with social housing. It seems to us that there may be a case for seeking contributions from developers to fund improvements to the existing stock of social housing, rather than asking for new-build social housing. It could be argued that, as a community's need for affordable housing is a material planning consideration (paragraph 1 of Circular 6/98), in those circumstances where the deficiency is not in numbers but in quality, it is sensible to seek contributions to increase quality rather than quantity. Paragraph 22 of Circular 6/98 sanctions the use of payments in lieu of the physical provision of affordable housing on sites. It states that such payments:

*'should ensure that such arrangements would actually result in the provision of affordable housing (whether via new build or conversions), that would not otherwise be provided, in the local planning authority's area.'*

In our view, there is an argument to be made that, if funding is not provided to maintain the existing stock of affordable housing, then there would be a decline in its availability and hence it would not be a supply of housing that would be forthcoming. ... If the Borough Council wishes to pursue such an approach, a full study into the quality of the stock of social housing in the Borough would be beneficial. This would help support the Council's stance at any future Local Plan Inquiry.

*Inter-Authority Working*

**3.5.7** Two of the case study authorities (both in the South West) commented on the fact that their local housing market was inextricably linked with that of one or more neighbouring authorities. In both cases they had therefore chosen to collaborate with adjoining authorities in undertaking a joint housing needs assessment. Their respective approaches are set out in the case studies below. The collaborative approach adopted is in line with the DETR Good Practice Guidance, which advises that:

*'One specific use for housing and labour market data, relevant to local housing needs assessment, is in defining the boundaries of functional housing market areas. Although local housing needs assessments are generally carried out within*

*the confines of existing district boundaries it is increasingly recognised that districts as real units are often imperfect representations of housing market areas (HMAs).*

*A functional housing market area may be defined as the geographical area in which a substantial majority of the employed population both live and work and where those moving house without changing employment choose to stay (Maclennan et al 1998). Housing market areas are indirectly related to the Department of Employment's travel to work areas (TTWAs), areas describing the commuting reach of centres of employment. A similar concept is the local labour market area (LLMA) as devised by the Centre for Urban and Regional Development Studies, University of Newcastle.*

*Because local authority districts are commonly more tightly bounded than HMAs, housing need assessments based on the former are often problematic because of the volume of migration into and out of the study area. This suggests that authorities preparing the groundwork for a local housing needs assessment would be well advised to first consider whether it might be appropriate to carry out this analysis at a different scale. For example, it might be that two or three neighbouring authorities would, as a group, approximate better to a housing market than a single district. Whilst carrying out a cross-boundary needs assessment could give rise to administrative and funding difficulties, it could be a more logical and even cost-effective approach than commissioning two or more separate studies, each bounded within essentially artificial boundaries.'* ([see endnote 10](#))

### **Case Study 3**

A consortium of six local authorities including the former Avon districts have commissioned a housing need study using a common methodology. The methodology is based on the assumption that a larger town and two smaller towns form, in practice, one 'housing market'. Currently, a methodology is being worked up to deal with the challenge of assessing need across local authority boundaries. A key objective of the assessment will be to avoid the need for major urban expansion and hence the assessment will be linked to assessment of capacity. Sites have been identified across a number of areas, assisting housing to become more easily dispersed. At the same time, no new settlements will be outside a reasonable travel to work time. In total, the needs assessment involves four rural authorities, two urban authorities and a number of housing associations. Initial assessments of needs in rural areas indicate a required programme of around 200 units over three years.

*Co-Ordinating Housing Needs Assessment With Planning And Affordable Housing Policies*

**3.5.8** A robust housing needs assessment is essential information which underpins any local policy and targets for affordable housing. However, as the DETR Guidance to Housing Needs Assessment comments:

*'the needs assessment is not on its own sufficient to determine planning targets, whether for housing requirements overall or for the affordable component'* ([see](#)

[endnote 11\)](#)

**3.5.9** Other factors which the Guidance suggests should be taken into account include:

- the planned level of land release and its relationship with projected household growth;
- the mix of sites available in terms of size, ownership, location and general suitability for different types of housing;
- the economic viability of site development given housing market conditions and likely costs;
- the requirement to promote choice and diversity of provision at district and neighbourhood level; and
- vacancies, decommissioning of stock and conversion gains/losses.

**3.5.10** Local authorities varied in the share of the option appraisal process which was undertaken in house and that which was assigned to consultants to be undertaken along with the housing needs survey. Land supply and ownership were generally matters which fell within the remit of the local authority itself. Consultants normally took guidance from the local authority in considering these matters. Information on social sector voids is again fairly readily available through the local authority. We found little information on economic viability of site development (except from the perspective of out-turn consumer cost), decommissioning of stock and conversion gains/losses. The requirement to promote choice and diversity of provision is typically reflected in plan policies but we saw no hard evidence as to what is currently being achieved through new provision (though housing needs surveys do provide information on the nature of the existing stock).

**3.5.11** Consultants varied in the extent to which they offered specific policy guidance to local authorities on affordable housing targets and percentages. One consultant provided guidance as follows;

*'It is clear from the scale of affordable need identified in the survey that the Council will need to negotiate with private landowners and developers to be able to deliver the scale of housing required. The economies of the scale of support that can be provided by the land itself and the need for available grant resources, are also major factors determining target levels. It is extremely difficult to achieve high affordable housing ratios from small infill sites and generally, larger sites are needed to provide free or discounted land of any meaningful scale.*

*Our view is that the sustainable mix of tenures and market price sectors should be sensitive to these factors and the target for subsidised affordable housing should be 30% of dwellings in any mixed tenure situation.*

*Despite the evidence of the scale of need from newly forming households, there are wider issues to consider when setting targets for delivery of affordable housing*

*from new developments. Primarily there is a need to build viable sustainable developments. Essentially planning should be providing for balanced communities, which acknowledge the need for social mix and compatibility if the problems of housing in the past are not to be repeated.'*

**3.5.12** Our survey of Local Plans returned with the questionnaire would indicate that in practice individual authorities are most likely to undertake a comparison between identified need for affordable housing and potential and recent housing supply in order to arrive at a percent target figure. They may also take into account availability of public funding through SHG.

#### **Case Study 4: Cotswold Local Plan**

In January 1997, Cotswold District Council commissioned independent research into local housing needs. This district-wide housing needs study, published in January 1998, identified the following key findings:

- In the District as a whole, 27% of households had annual incomes of less than £7,000.
- The average house price in the District (third quarter 1997) was £93,012. Entry level house prices ranged from £35,000 for a one bedroom property to £65,000 for a three bedroom property.
- Average private sector rents started at £4,430 for one bedroom accommodation, and rose to £5,980 per year for a three bedroomed property.
- Estimated need for affordable housing, to the end of the plan period was between 1,750 and 2,400 existing and emerging households.
- 56% of social housing demand was found to lie outside the main towns of Cirencester, Tetbury, Moreton-in-Marsh and Bourton-on-the-Water.
- The supply of social housing (allowing for lettings, homelessness and right-to-buy sales) was likely to fall short of the need for such housing by between 500 and 600 units in the period to 2001.

In the towns of Cirencester, Tetbury, Moreton-in-Marsh and Bourton-on-the-Water, the Local Plan allocates sites for 305 dwellings. Of these, 268 are on sites which meet the 25 dwellings/one hectare threshold. Recent experience has show that up to 25% of these dwellings could be affordable housing, giving a potential supply of about 70 affordable homes - significantly below the forecast need. During 1997, planning permission was granted for 50 dwellings on sites in those towns which would meet the 15 dwellings/0.5 ha threshold. Allocated sites in these settlements with populations below 3,000 would provide 310 dwellings. Of these, 301 are on sites which meet the 15 dwellings/0.5 hectare threshold,

giving an affordable housing potential of 75 affordable houses - again significantly below the forecast need.

*For these reasons, the thresholds which will be applied to residential development for seeking affordable housing will be 15 dwellings/0.5 hectare in settlements with populations above 3,000 and ten dwellings/0.25 hectare in settlements with populations below 3,000.*

The limitations on further development in the Cotswolds are an important factor. It is sensible for the Council to seek some affordable housing on sites allocated for residential development in this Plan where the site itself is large enough, and appropriate for such housing, and where the need for it is known to exist. This is preferable to allowing affordable housing on sites in more sensitive locations where appropriate architectural standards are required.

#### **Case Study 5: North Dorset Local Plan Subsidised Housing**

*Altogether, DCA estimate the total net affordable housing requirement from 1988 to April 2011 will be 1,415 dwellings DCA make it clear that they consider this need to be entirely for subsidised housing provided through registered social landlords.*

*In effect this means that, in order to meet the needs of those on the current needs register as well as estimated future needs of homeless and concealed households, another 1,415 subsidised dwellings should be built, as well as the 200 already in the Housing Programme. This would require a public sector building programme of 124 dwellings per annum, which is equivalent to 36% of the total new build programme (of 347 dwellings per annum) in the District to 2011.*

*However, when existing planning permissions are taken into account, the proportion of affordable housing required from the remaining allocation rises to just over 50%, if this target is to be achieved.*

*Bearing in mind the difficulty of achieving affordable housing on small windfall sites, the onus would fall more heavily on those greenfield sites allocated in the plan, pushing up the proportion of subsidised housing to be sought to unacceptable levels.*

*To expect to achieve a target of 124 subsidised dwellings per annum, would also be unrealistic in view of the likely constraints on financial resources available both to this Authority and through the Housing Corporation. While over £5.7 million was spent through Local Authority Social Housing Grant between 1994-1998 (an average of £1.425 million*

*per annum), to provide around 420 properties, it is anticipated that this will drop to around £800,000 per annum over the next five years (see [endnote 12](#)). Housing Corporation funding is also uncertain. It is therefore most unlikely that the current building programme of around 100 dwellings per annum will be maintained.*

*Bearing these factors in mind, DCA recommend that the Council seeks to achieve a target of 400 subsidised dwellings over the period to 2006 (50 dwellings per annum), through negotiations with prospective developers of sites which come forward for planning consent.*

*This is a more realistic and achievable target which, if projected forward to the end of the Local Plan period, would require the provision of 650 affordable dwellings between 1998 and 2011.*

*The existing local plan requirement (Policy 2.9) is for 800 affordable (subsidised) dwellings to be built between 1996 and 2011 (i.e. 53 dwellings per annum). Between 1996 and 1998 just under 200 dwellings were built, reducing the remaining requirement to around 600 dwellings (47 dwellings per annum). It is considered that the figure recommended by DCA is close enough to this target to be acceptable and is realistically achievable.*

**3.5.13** Local authorities face a difficult task in marrying up need for affordable and market housing and land supply. They should also take into account financial viability. There will be no single right answer but the local authority should be clear about the process by which it has arrived at its decision and the factors which have been taken into account.

#### *Monitoring And Updating*

**3.5.14** Several respondents commented that housing needs surveys only provide results which are valid for three-five years, whilst the typical Local Plan or UDP runs for a 15 year period. Authorities are therefore required to set long-term targets, whilst only having short-term information. This is not a problem which is unique to the affordable housing debate. Local plans and UDPs are of course reviewed approximately every five years offering scope for amendment of the policy for the area as a whole. Regular monitoring of key variables will alert the local authority to changes in demand for affordable housing which could influence the affordable housing target. Such factors will need to be taken into account in negotiation with developers, whilst also recognising the impact on financial valuation of changes in affordable housing policy. We suggest in Chapter Eight that an annual update of these factors should be provided through the Housing Strategy Statement.

**3.5.15** One consultant provides a checklist for monitoring as follows:

- the number of new entrants to the social rented sector each year;
- the number and reasons for exits from the same sector;
- the value and volumes of property transactions in the market by property type;

- the level and turnover of properties due to certain key factors such as repossessions, bankruptcy and probate;
- the level of turnover of properties more generally by Council Tax Value band;
- the level of properties for sale and for letting in the private sector;
- Right to Buy completions;
- new construction starts;
- homelessness acceptances;
- waiting list registrations; and
- to this list we would add house prices and income data.

### **3.6 Towards Better Practice**

**3.6.1** DETR has published guidance on the preparation of housing needs surveys. Local authorities should familiarise themselves with this guidance and ensure that their consultants follow it.

**3.6.2** Both urban and rural authorities have indicated their desire for a methodology which provides information on differential housing markets within the local authority area. The DETR guidance recommends techniques to achieve this and we also found individual examples of good practice. Local authorities for whom this is an issue should make sure that they commission research which can provide reliable information on differential housing markets within the local authority area.

**3.6.3** Sometimes different authorities share a common housing market. There is a strong case for collaboration in assessing housing need across local authority boundaries.

**3.6.4** Given the reservations expressed by house builders about the overall quality of housing needs surveys it is surprising that there has been no robust critique from the industry of the methodologies employed. The house building industry should either clarify and publicise its objections to the survey methodologies commonly used, or accept their results as an accurate reflection of local housing need.

**3.6.5** Government Offices should satisfy themselves that housing needs surveys meet the criteria set out in the DETR guidance. It is not enough simply to insist that local authorities have undertaken a housing needs survey. The Government Office should actually find its results credible.

**3.6.6** A housing needs survey underpins any affordable housing target, but there are also other factors which should be taken into account. Local authorities should avoid acceptance of a 'going rate' and should prepare affordable housing policies which reflect the needs of their areas taking into account overall housing supply, access to public funding and the need to

create balanced communities.

**3.6.7** Regular monitoring of key variables is essential. They should be assessed in the light of the council's overall housing policy and should take into account other factors such as the impact of regeneration and the economics of development.

**Endnotes**

**5** Circular 6/98, Paragraphs 5 and 6

**6** Local Housing Needs Assessment: a Guide to Good Practice p38, ISBN 1 85112 408 X, £17 (DETR 2000)

**7** Focus group

**8** ibid p29

**9** ibid p30

**10** ibid p98

**11** ibid p104

**12** NDDC Housing Investment Programme 1994-98. A review of the Past and Plan for the Future.

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## Chapter 4 - Significance of Affordable Housing Provision

### 4.1 Introduction

**4.1.1** This chapter is concerned with the significance given to affordable housing when considering planning applications. The questionnaire evidence shows that local plans and UDPs are in place, sometimes supported by Supplementary Planning Guidance for affordable housing. The interview evidence from local authorities and house builders suggests, however, variable prioritisation of affordable housing delivery.

**4.1.2** Low prioritisation and perceived inconsistent prioritisation between departments within local authorities are barriers to the effective delivery of affordable housing.

### 4.2 National Policy Position

**4.2.1** Circular 6/98 states that 'Where there is evidence of need for affordable housing, local plans should include a policy for seeking an element of such housing on suitable sites'. PPG3 makes it clear that 'A community's need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing.'

### 4.3 Findings and Issues

#### *Findings*

**4.3.1** 92% of all local authorities responding to the question 'Does your Local Plan / UDP refer to the provision of affordable housing?' said 'yes'. Four out of five of those who said 'no' stated that their emerging plan did refer to the provision of affordable housing. This left only one authority, in the North West, giving a negative response with respect to both the existing and emerging plan. 100% (47/47) of local authorities responding to the question, 'Does your emerging plan refer to the provision of affordable housing?' said 'yes'.

**4.3.2** Of the 69 authorities with affordable housing policies in their adopted or emerging local plan / UDP 44 (64%) had either numeric or percentage targets for affordable housing provision. This amounted to between 65 and 75% of all responding authorities in each region except the West Midlands where 46% (6/13) responding authorities had numeric or percentage targets.

**4.3.3** 13% (9/70) of local authorities answering the relevant question stated that they did have Supplementary Planning Guidance (SPG) relating to affordable housing that was adopted as current policy. Of those authorities that said they did not have such guidance, nine had SPG referring to affordable housing that was not formally adopted as Council policy. Thus 26% (18/70) of authorities had either adopted or unadopted SPG referring to affordable housing. None of these 18 authorities was in the North West; two were in Greater London, five were in the South East, five in the South West and six in the West Midlands.

## Findings From The Case Studies

**4.3.4** House builders are assisted by clear statements in development plans and SPG that emphasise the importance of affordable housing provision. However, house builders have identified confused messages coming from some local authorities on the degree of priority that affordable housing provision is given in practice. These confused messages relate to requests to provide, for example, roads and schools, potentially at the expense of affordable housing. Given that district authorities are responsible for affordable housing and county authorities are responsible for education, the confusion relates partly to a lack of clear and consistent prioritisation in the communications from different authorities but it also relates to a lack of clarity between different departments within local authorities.

**4.3.5** The fact that affordable housing is one of a variety of competing forms of demands on house builders is an issue of priorities for the local authority and clarity for developers. The contribution to education has been highlighted as a competing claim in some instances. The lack of an established pecking order for housing and infrastructure has been cited in other cases. House builders have provided examples where different priorities are apparent between departments within the same authority.

**4.3.6** The views of local authority elected members are important. Appropriate provision of information to members and their understanding of the issues are significant factors in influencing the nature of local policy and its implementation. Members might not accept the need for affordable housing across a district and may perceive that there are locations with too much affordable housing. They may promote other priorities including education and off site infrastructure. Some members argue that they lack sufficient information to make a judgement about an appropriate target level of affordable housing development. The perceptions and priorities of parish councillors can be crucial to the success of rural exception schemes. Where there is no parish council support, schemes may not be perused.

**4.3.7** In some authorities new build affordable housing is not a significant policy objective and it gets a low priority in officers' workloads. It can, in some areas, be seen as an additional burden and not financially viable. If conflicts between regeneration and affordable housing are perceived, regeneration may get priority. Where urban or rural regeneration is a key local issue, affordable housing through planning can suffer from a low level of commitment. In some instances there is a preference for commuted sums from sales in order to finance the purchase of street properties.

**4.3.8** Local market conditions, housing need and financial viability may influence the place of affordable housing in a policy priorities hierarchy. Misunderstanding can also affect this virtual hierarchy, as can overriding desires to see other policy objectives achieved.

**4.3.9** A high level of policy commitment with the support of elected members is an important aspect of effective delivery.

**4.3.10** A high level of priority for affordable housing provision is often combined with effective corporate arrangements within local authorities. The corporate working arrangements can be both a reaction to prioritisation and prioritisation can be promoted by corporate working that leads to an improved understanding of issues across an authority. This issue is given more

attention in Chapter 12.

#### **4.4 Towards Better Practice**

**4.4.1** The importance that a local authority attaches to the delivery of affordable housing should be firmly established in development plans.

**4.4.2** Local authorities should take steps to ensure that members have a clear and consistent understanding of affordable housing policies.

**4.4.3** Effective corporate working relationships to deliver affordable housing should be established within and between local authorities.

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## Chapter 5 - Thresholds and Targets

### 5.1 Introduction

**5.1.1** In this chapter we review three inter-related aspects of policy and implementation for the delivery of affordable housing - the setting of authority wide targets, defining sites on which affordable housing is to be provided (*qualifying sites*) and the amounts of affordable housing to be sought on qualifying sites. In any area, the number of sites which provide affordable housing and the amounts each deliver clearly determine how much affordable housing is achieved overall and, thus whether the target for provision is met. ([see endnote 13](#))

### 5.2 National Policy Position

**5.2.1** PPG3 says that Local Plans (including UDPs) should provide guidance on all three elements (para 15):

*'Local plan policies for affordable housing should:*

- *indicate how many affordable homes need to be provided throughout the plan area,.....*
- *identify suitable areas and sites on which affordable housing is to be provided and the amount of provision which will be sought.'*

**5.2.2** The number of affordable homes referred to includes provision on mixed tenure sites as well as on sites developed solely for affordable housing.

**5.2.3** Circular 6/98 provides specific guidance on thresholds which can be adopted in local plans and which, effectively, defines the sites on which affordable housing will be sought (para 10 (i)):

- a. '25 or more dwellings or sites of one hectare or more;*
- b. in Inner London 15 or more dwellings or sites of 0.5 of a hectare or more;*
- c. in settlements with a population 3,000 or fewer - '... the local planning authority should adopt appropriate thresholds.'*

**5.2.4** If a local authority, which would normally be expected to adopt threshold a, can demonstrate, '*...exceptional local constraints...*' it has the flexibility to adopt a lower threshold but not below that set out in b. The constraints in this context relate to the nature of the future anticipated land supply (site sizes).

**5.2.5** The recently published Rural White Paper ([see endnote 14](#)) emphasises both that local planning authorities (outside London) could seek to adopt lower thresholds than the 25 dwellings(1ha) - '*where acute pressures can be shown to exist and smaller schemes would be viable....*'([see endnote 15](#)) (though not, we assume, below 15 units) and the flexibility for authorities to set their own threshold for settlements of 3,000 or less. The White Paper says of

this option that it, '*...is not always used to its full effect*' and goes on to encourage its wider adoption. As we report later, the White Paper is entirely correct in its analysis of the current situation. Indeed the White Paper goes further and says at 5.4.5., '*...there is no reason why, in small villages if there is evidence of need and subject to financial viability, they (local authorities) should not seek to match every new market house with an affordable home*'.

**5.2.6** Thus DETR draws a clear distinction between the policy on thresholds to be adopted in small rural settlements from that in urban areas.

**5.2.7** Local plans therefore are to set out the overall approach to be adopted by local planning authorities but PPG3 recognises the importance of individual site circumstances and reconfirms the earlier guidance in Circular 6/98 that the amount of affordable housing achieved on any site should be a matter for negotiation - '*Decisions about the amount and types of affordable housing ....should reflect local housing need and individual site suitability and be a matter for agreement between the parties.*' (PPG 3 paragraph 16). PPG3 also calls on all local planning authorities to undertake an urban capacity study so that they can establish how much additional housing can be accommodated within urban areas (before considering their need for future greenfield development) (see paragraphs 24 to 27 of PPG3).

**5.2.8** They are then asked to adopt a systematic approach to assessing the development potential of sites and to follow a search sequence adopting the criteria set out in paragraph 31 of PPG3 in order to identify the sites to be included in their development plans. These criteria include:

- *availability of previously developed sites and empty or under-used buildings and their suitability for housing use;*
- *location and accessibility of potential development sites to jobs, shops and services by modes other than the car and the potential for improving such accessibility; and*
- *the ability to build communities to support new physical and social infrastructure and to provide sufficient demand for sustainable local services and facilities.*

**5.2.9** The combined process of identifying capacity and the search sequence for sites is of equal importance in assessing the amount of affordable housing which can be delivered. Urban capacity studies should enable authorities to form a proper view of the number and sources of sites which will be above the base thresholds set in *Circular 6/98* and therefore whether they have a reason, in terms of land supply, for seeking a lower threshold. In fairness to the case study authorities, although there had been time for them to have responded fully to *C6/98*, they had had limited opportunity to consider the implications of PPG3 when we interviewed them. They would not have been in a position to have carried out all the work needed to provide a full picture of their urban capacity nor to come forward with a robust search sequence of sites. It is within this context that we describe the issues emanating from our research.

## **5.3 Findings and Issues**

## *District-Wide Targets*

### *Types of Targets*

**5.3.1** The postal survey of local authorities showed a very mixed picture in the approach adopted towards the use of targets and thresholds.

**5.3.2** At authority level, the use of targets (be they expressed as an overall number or as a proportion of the total housing provision) is far from universal - 34% of authorities in the postal survey had an adopted plan with some form of target. However, as plans are reviewed, more use is being made of targets. The postal survey found 22 authorities (out of the 74 responses) proposing a target in their emerging plan but who have none in their adopted plan.

**5.3.3** Where authorities have no target, they will almost invariably revert to policy wording that generally encourages affordable housing:

*'...seek to encourage the provision of an element of affordable housing on appropriate sites...'* (North West urban authority - 1995 Plan)

*'...the Borough Council will where there is a proven need actively seek the provision of affordable housing...'* (West Midlands urban authority - 1997 Plan)

*'...wherever possible seek the inclusion of affordable housing...'* (South East urban authority, 1994 Plan)

**5.3.4** However, as plans are reviewed, more use is being made of targets. The postal survey found 22 authorities (out of the 74 responses) proposing a target in their emerging plan but who have none in their adopted plan.

**5.3.5** We might have expected that authorities in the more 'pressured' regions (London, South East and South West) would be more likely to have set a target for the provision of affordable housing but this has not proved to be the case. The postal survey shows roughly equal proportions of local authorities in every region studied which have no target either in their adopted or emerging plans.

**5.3.6** Considering their emerging plans, local authorities are showing a preference for a numeric target rather than a percentage one (21 authorities as opposed to 12). Five authorities said they have both a numeric and percentage target.

**5.3.7** Percentage targets are within a very narrow range and only one authority with a percentage target in their emerging plan had one outside the range 20% to 30% (at 35%).

**5.3.8** This is intuitively surprising given the wide range of housing markets in which the authorities operate. Chapter Three dealt with progress in undertaking local housing needs assessments and we commented there on the different ways in which authorities made use of their needs assessments to inform the targets used.

### *Target Setting*

**5.3.9** Both the postal survey and the case studies showed that housing needs assessments are used by a high proportion of authorities in developing their targets.

**5.3.10** There are then two approaches adopted by authorities. One relies directly on the recommendations of consultants who undertook the study (usually survey based) and the second on the assessment of need divided by the overall housing figure to give a percentage of future housing development which should be affordable.

**5.3.11** However, the Good Practice Guide to Local Housing Needs Assessments ([see endnote 16](#)) says that assessments are necessary in determining targets but that they are not sufficient (see paragraph 8.2) and that there are a range of other factors which need to be taken into account. The Guide provides a detailed account of these. In summary they cover:

- *planned level of land release;*
- *economic viability of site development (taking advice from experts and with different assumptions about the availability of subsidy); and*
- *the requirement to promote choice and diversity.*

**5.3.12** The Guide says that these need to be considered in the context of the time horizons of the assessment and the plan - which are usually different (a point we pick up again later).

**5.3.13** To this list, we would add the need to estimate how much, if any, provision of affordable housing will be forthcoming on 100% affordable housing sites. The amount to be delivered through the planning system should logically be the difference between the overall target and the contribution from 'affordable only' sites. In some places this will be negligible but in others it will not.

**5.3.14** There are authorities, albeit that they are in a small minority' which are following more closely the broad based approach to target setting outlined in the Good Practice Guide:

- **Postal Survey One** - London Borough - need identified at around 10,000 but from capacity study and assumption that qualifying sites could generate 30% affordable housing, potential identified is well below affordable housing needs figure so accept target based on assumed maximum can deliver (c 2,500).
- **Postal Survey Two** - London Borough - estimate of need for affordable housing would account for a '*...a large proportion of ...future housing provision...*' but this is tempered by, '*... local circumstances relating to land availability...and the need to ensure a range of housing types and sizes...*' so that the final target of 25% is said to be, '*...a more realistic objective*'.
- **Postal Survey Three** - South East urban - need estimated at 1,700 but analysis of potential sites above threshold adopted assumed to yield only around 500 dwellings and this used as target.

**5.3.15** A pattern begins to emerge from these examples although the evidence is not straightforward - not least because the process by which authorities have arrived at their target is often far from transparent.

**5.3.16** For authorities where need is more modest and suitable large sites in sufficient supply, then the target adopted will be essentially 'needs driven'. But where need is substantial and capacity is constrained and/or other local objectives limit affordable housing provision then capacity will play a more important role in target setting.

**5.3.17** Indeed, one case study owned up to this problem explicitly and explained that they had discounted their survey results (which called for a 50% affordable target) because they believed that the target was neither practical nor economically viable when translated into individual site requirements. They had adopted a much lower target - the precise justification for which was not transparent.

**5.3.18** A couple of case study authorities went further and suggested that in their districts the estimated need for affordable housing outweighed their total housing allocation. It therefore became difficult to set a formal target based on the housing needs survey. Eventually a target was set but the basis for this was not explicitly numeric - other than a reliance on some sort of 'going rate' in the area, combined with officer judgement/local political preferences.

**5.3.19** A minority approach amongst authorities was to seek guidance from an entirely different source. In one instance in the South West the case study authority quoted from a report prepared for the Regional Planning Conference which it felt provided the only assessment of local need it had available (until it had completed a more detailed and up to date assessment), whilst one London borough plan (from the postal survey) referred to an estimate provided by LPAC and another said that they would, '*...seek a proportion of affordable housing in accordance with strategic guidance*'.

**5.3.20** A variant on this approach was found in the West Midlands where some authorities look to the West Midlands Local Government Association which has adopted a definition of affordable housing that has been commended to all local planning authorities in the region for use in their development plans. The WMLGA has also provided notional targets for affordable housing at the local level which have been incorporated into the emerging plan policy in the case study authority:

*'Although RPG11 does not specify any targets for affordable housing provision, the local authorities' 1997 advice on the review of RPG11 estimated that the region will need about 130,000 additional social sector homes 1991-2011. The figure for X was Y and this will be taken as the indicative target for the purposes of this review of the UDP. It is considered important to adhere to this target in the interests of maintaining consistency across the region.'*([see endnote 17](#))

**5.3.21** Whilst it is questionable whether authorities should eschew locally derived targets, it is evident that local authorities can draw comfort from solidarity with others in their region and/or feel more comfortable with targets which have a wider context than a narrow analysis of the local situation.

## Thresholds

**5.3.22** Both the postal survey and the case studies demonstrate that those authorities with a specified threshold in their adopted plan are most likely to base it on government guidance relevant at the time of plan adoption.

**5.3.23** Five of the case study authorities either had no adopted plan or one which did not provide guidance on thresholds. These authorities explained that they relied on *Circular 6/98* thresholds in their negotiations with developers.

**5.3.24** Whereas only two of the case study authorities had a threshold above *Circular 6/98* levels (at 40 dwellings and one ha respectively), three had thresholds below the basic levels set out in Circular 6/98. However, these policies are contained in local plans adopted prior to 1998.

- Case Study One - South East urban - five dwellings.
- Case Study Two - West Midlands urban - 15 dwellings.
- Case Study Three - South East urban - no thresholds - adopted plan states:

*'...affordable housing can be achieved on sites of various sizes within urban areas...and to introduce an arbitrary cut off size would be both inflexible and unfair.'*

**5.3.25** We also identified one case study which used a 'sliding scale' threshold, where different amounts of affordable housing are sought on sites within different size bands. An authority in the south west is promoting a sliding scale in its draft local plan. This requires 20% of units to be affordable on sites of over ten units; but with a higher percentage of 40% required on smaller sites of between five and ten units.

**5.3.26** Evidence from both the case studies and postal survey show that where authorities do not have a specific numeric threshold they usually refer in their plans to a general description of the types of sites on which affordable housing would be expected, for example, *'...sites of a substantial scale...'* ([see endnote 18](#)). This can be complemented by a list of allocated sites with a specified amount of affordable housing to be sought on each.

**5.3.27** Authorities currently relying on a plan with less prescriptive policies explained that this could cause them difficulties in terms of achieving what they considered to be a reasonable level of delivery.

**5.3.28** But other authorities in a similar position can also be successful in delivering affordable housing. They appear to achieve this by being consistent in their requirements, by effective corporate working and by adopting a strong approach to negotiations. Being in a buoyant housing market area is also helpful and whilst developers are unwilling to challenge planning

authorities (for fear of delay) this will likely continue. But a weak policy framework operating in a static or declining market might not be so easy to sustain.

**5.3.29** As development plan policies are updated they are becoming more precise and prescriptive in their use of thresholds and are tending towards lower thresholds. Our evidence for saying this comes first from the postal survey which shows:

- 49 authorities include thresholds in their adopted or emerging plan;
- with 19 of these, thresholds were being introduced in the emerging plan but were not included in an adopted plan (if one existed). Authorities in the North West were less likely to have a threshold (only three out of ten authorities) but otherwise the regional picture is consistent;
- thresholds in emerging plans tend to be lower than in adopted plans e.g. six authorities outside inner London were proposing a 15 dwelling threshold. None of these was in the North West.

**5.3.30** Examples of the plan policies provided by authorities responding to the postal survey illustrates this further:

- **Postal Survey One** - South West rural - 1996 Adopted Local Plan says that affordable housing will be sought on '*new large housing sites*' whereas the emerging plan (2000 deposit version) specifies a threshold of 15 dwellings in larger settlements and five in those below 3,000 population.
- **Postal Survey Two** - South East urban - 1994 Adopted Plan has a threshold of two acres whereas the 1999 deposit version of the plan review proposes a 15 dwelling threshold.
- **Postal Survey Three** - South East urban - 1999 plan alterations reduced thresholds from 40 to 25 dwellings to reflect new guidance in *Circular 6/98*.

**5.3.31** The case studies confirmed the trend. As authorities review their plans, those without (clear) thresholds are introducing them and many of those with *Circular 6/98* thresholds are considering reducing them (specifically mentioning results of a recently completed needs survey to back this up).

**5.3.32** Aspirations to secure thresholds in their next plan of five, ten and 15 dwellings are common and were specifically mentioned by nine of the case study authorities, all of which were from the south ([see endnote 19](#)). This downward shift reflects concerns about lack of land coupled with high levels of need. Two of the nine authorities were considering, if only at an informal officer level, removing the thresholds altogether.

**5.3.33** Examples of the history and possible future policies from the case study authorities illustrate these points:

- Case Study One (Rural) - Adopted plan - no specified thresholds - housing needs survey suggesting 40% on sites over 15 dwellings and over five in villages - authority considering its response.
- Case Study Two (Mixed) - 1992 plan had threshold of two hectares, new plan adopts Circular 6/98 thresholds.
- Case Study Three (London) - Adopted plan - 15 dwellings - would like to reduce further.
- Case Study Four (Urban) - no thresholds in adopted plan - estimates about two thirds of sites below 25 dwellings - considering threshold of 15 (or less) dwellings in emerging plan.
- Case Study Five (Rural) - none in adopted plan - considering introducing ten dwellings in emerging plan.
- Case Study Six (Mixed) - 40 in previous plan - revised plan (adopted 2000) uses Circular 6/98 thresholds.
- Case Study Seven (Urban) - *Circular 6/98* in adopted plan, ten dwellings in emerging plan (2001).

**5.3.34** The move towards lower thresholds is despite the general perception that government office advice tends to be against lower thresholds and certainly against thresholds below the minimum levels set out (i.e. 15 dwellings in urban areas outside inner London). These views were based on a mix of direct experience, '*...have received warnings from X government office....*' and expectation, '*...unsure whether this will be acceptable....*'

**5.3.35** However, as we have seen already, some of the case study authorities have already secured thresholds below the 'normal' levels set out in *Circular 6/98* and some even below the minimum of 15 dwellings/0.5 ha for larger settlements.

**5.3.36** The specific justification used for these lower thresholds (and tested at inquiry) varied from authority to authority. However, the common theme was that the authority could demonstrate a high level of need and limited number of new large sites to come forward during the plan period - be this because of tightly drawn urban boundaries, high levels of commitments and/or major environmental constraints.

#### *Rural Authorities And Approach To Thresholds*

**5.3.37** From the postal survey we identified 22 local authorities (or about 30% of the authorities who responded) who said that they have 30% or more of their population in settlements of less than 3,000 people and have used this as an arbitrary definition of rural authorities.

**5.3.38** However, even in the most deep rural authority there are settlements above the 3,000 level - the small and medium sized market towns. This mix of settlement type is influencing the way rural authorities deal with thresholds. The picture emerging from the case studies is that these authorities concentrate their affordable provision in their market towns where larger sites were allocated and/or larger windfall sites could be anticipated.

**5.3.39** Nevertheless, in settlements of below 3,000 population we found increasing use being made of 'tailor-made' thresholds. From a review of the plans returned from the postal survey, seven authorities in their adopted or emerging plans (all of which post-dated Circular 6/98) had different and much lower thresholds in their smaller settlements than were being used elsewhere in their district.

**5.3.40** The approach to thresholds differed and may or may not be linked to a wider concern about threshold levels across the district as the two examples below illustrate:

- **Postal Survey One (South West)** - Deposit Plan (2000) proposes a threshold of 15 dwellings in larger settlements and five dwellings in those below 3,000, explaining that, '*...given ...the overall level of housing need...it is considered essential that all reasonable opportunities are taken to provide affordable housing...*'
- **Postal Survey Two (South West)** - Adopted Plan (1999/2000) - has a threshold of 15 dwellings in larger settlements and two in settlements of below 3,000 explaining that there is, '*...significant need...*' and, 'exceptional environmental constraints' in their area so that they need to, '*...maximise the number of opportunities...*'

**5.3.41** The case studies explained in more detail the issues faced in dealing with thresholds in their smaller settlements. The first is simply that of timing and awareness - plans predating Circular 6/98 and where authorities had not had the chance to respond to the greater freedom allowed in the circular. The second reason was a view that sites coming forward in these settlements tended to be very small - 'twos and threes' - and the ability to deliver affordable perceived to be of very limited scope and/or not be practical. The Rural White Paper could be used to justify thresholds at these levels but most of the case study meetings had been completed by the time of its publication and so the authorities' responses to it are not possible to gauge (see earlier).

**5.3.42** One of the (more rural) South East authorities described a fairly extreme case in point which puts the issue in sharp focus. Here the adopted local plan concentrates housing development on two major sites on the edges of the largest settlements in the district. Together the two sites account for about 90% of the allocated housing. At the same time about 30% of the total housing approved is on very small sites well below the threshold (mainly in the one to three range). Provision of affordable housing will necessarily be concentrated in the two major sites but the need for affordable housing is spread throughout the district. In this sort of case exceptions policy is used to address this need as examined further in Chapter 13.

**5.3.43** There were case study rural authorities that have or are moving towards a more locally responsive use of thresholds for their smaller settlements. This is being driven by the growing understanding that sites coming forward tend to be small and that local needs surveys (at district-wide level) are identifying considerable need for rural affordable housing, even if the surveys, by themselves, cannot be precise about needs at individual settlement level ([see endnote 20](#)) Case study examples to illustrate this came from:

- **Case Study One (South West)** - About 60% population in settlements below 3,000 and with relatively high house prices, the recent housing needs assessment has identified

considerable local need. Adopted plan has no policy on thresholds. Authority has been achieving affordable housing through negotiations on the few large allocated sites in the district but windfalls, especially in the smaller settlements, are generally small (between two and ten dwellings). Housing needs assessment suggests need for threshold of five dwellings in villages in emerging plan;

- Case Study Two (South East) - Using Circular 6/98 thresholds currently, no separate threshold for smaller settlements. Significant need for affordable housing identified in recent housing needs assessment. Future housing provision heavily reliant on windfall opportunities and number of relatively small allocated sites. Considering threshold of five dwellings in emerging plan.
- Case Study Three (West Midlands) - Sites coming through are all small - considering seeking contribution from all sites, subject to negotiation with developer.
- Case Study Four (South West) - 50% population in rural settlements below 5,000 population, there are allocated sites in larger towns in district but are relying on windfalls in smaller settlements where have threshold of eight dwellings in emerging plan (adoption anticipated in 2001).
- Case Study Five (West Midlands) - 25 dwellings in named larger settlement but no specified threshold in other (smaller) settlements and individual sites assessed on basis of demonstration of 'exceptional constraints.'

### *Density*

**5.3.44** It might have been expected that the case study authorities (in urban and rural areas) would mention the relationship of density to site size and thresholds. As PPG3 encourages the effective use of land and higher densities, smaller sites which previously would have fallen below the area thresholds set out in *Circular 6/98* could, with higher densities, now be above the dwelling number threshold.

**5.3.45** By operating firmer density policies authorities could achieve a double benefit - more effective use of land and more opportunities to secure affordable housing.

**5.3.46** We pick this point up in our recommendations, but we must recognise that we have little in the way of practical examples of good practice on which to base this.

### **Contribution From 'Qualifying Sites'**

**5.3.47** The amounts of affordable housing sought by authorities on qualifying sites does vary but typically within a fairly narrow band of between 25% and 30%. Even where policies are very loose - eg 'maximum reasonable percentage' - similar percentages have become established as 'the going rate.'

**5.3.48** According to the authorities, what is actually achieved after negotiations tends to be a little lower. In only two of the case study authorities specific reference was made to the achievement of a much higher percentage of affordable housing on a mixed tenure site. Both were urban authorities, one in London where a very large regeneration scheme includes a

broad range of affordable housing types (social rent, sub market rent, low cost sale etc) in its mix. The other example, also on a large regeneration site, referred to the availability of substantial levels of public subsidy as one of the reasons why it could achieve nearer 40% affordable housing on the site. The scheme obtained additional funding from 'New Deal for Communities'.

**5.3.49** As we note in Chapter Eight, authorities in pressured market areas are generally looking to increase their target site percentages, through revised plan policies or some other mechanism (such as SPG). We were quoted four specific examples by the case study authorities (all in the south of the country) of aspirations to achieve higher percentages on qualifying sites than is currently the norm - up to 30%, 40% or even 50%. The immediate reasons for this were varied - in response to a recent housing needs survey, in response to a regional policy statement, as part of the plan review process and in response to local political pressure to achieve more. However, these cases all reflected the authorities' growing linked concerns about the need for affordable housing in their area and the size of sites potentially available.

**5.3.50** We do not know whether these current aspirations will become firm policies. They do, though, reinforce the point that in pressured market areas authorities are taking stock of the effectiveness of their current policy framework and future reviews are more likely to push up the requirement for affordable housing rather than reduce it.

**5.3.51** But neither when negotiating on specific sites (nor in setting district-wide targets and thresholds) do authorities have a clear view on what is economically realistic ([see endnote 21](#)). From what we have learnt we can find no basis for assessing whether authorities could be achieving more from qualifying sites or whether they might be stultifying development (especially of more difficult sites) by asking for too much affordable housing. We pick this point up in our better practice recommendations.

## **Implementation Issues**

**5.3.52** Two themes emerge from our research, the first is that of 'the science' behind policy making and the second, that of change.

**5.3.53** Although the authorities interviewed appreciated the relationship between their housing needs survey and policy making and that site economics were a material consideration in both plan making and in deciding on individual applications, we found little evidence that there was any science behind their approach. As one consultee said when asked how they handled a tricky negotiation - '*...I ask my senior manager...he has lots of experience...*'

**5.3.54** We have already noted that, with some honourable exceptions, authorities do not take advice on the economics of affordable housing development. Yet a number of authorities in their plan policies justify the percentage to be achieved on qualifying sites in terms of a very generalised consideration of development economics, very occasionally also referring to anticipated levels of public funding:

*a 30% site contribution to affordable housing justified because it '...reflects the level of social housing funding which is likely to be available...'*

*' take account of financial viability...'*

*'...based on realism...'*

*'...a reasonable balance between profit generation and community benefit...'*

**5.3.55** We have already commented that plan making in areas of very high levels of affordable housing need often refer to capacity constraints to justify authority-wide targets. However, we found limited evidence of authorities which explicitly said that they intended to use an urban capacity study to inform their threshold policies in emerging plans. One South East authority's urban capacity study shows about 70% of identified sites below 25 dwellings. The initial deposit version of the plan review is seeking a threshold of five dwellings.

**5.3.56** Others wanting to move towards lower thresholds are relying on very broad-brush information on the contribution from small sites and windfalls - eg *'...sites are generally small...'*. They are often also responding to recent needs surveys which have highlighted extremely high levels of need.

**5.3.57** The lack of 'science' to draw together results from housing needs surveys, information about the (future) supply of housing land and an informed understanding of local development economics to inform policy is, in our view, a significant hole in the implementation process.

**5.3.58** To be fair to the authorities it is unclear what they have to prove to define acceptable (lower) thresholds. Provided they remain above *Circular 6/98* guidelines, then we found no evidence that their judgement is questioned.

**5.3.59** When they want to go below, there is a perception that the government office will object - although we also found examples of four case study authorities which had persuaded inquiry inspectors that their case was justified, and the government office had then been content. However, two of these could be regarded as exceptional. In one, the local plan inquiry inspector had recommended a lower threshold than promoted by the authority and in the other, a former new town, historic planning permissions under new town legislation meant a very limited range of new sites coming forward in the future without Section 7 (1) consent. Therefore it was deemed appropriate for a lower threshold to be adopted.

**5.3.60** Although the principles for the debate about thresholds are well established the rules are something we believe need further exploration in developing better practice.

**5.3.61** We might have expected that lower thresholds per se would be firmly resisted by the house builders but the picture is more complicated. The authorities currently operating lower thresholds explain that initial reactions to their introduction were very hostile but over time the development industry (and the land market) has adjusted. Again, whether this would be the case in a slow or declining housing market is another matter.

**5.3.62** Furthermore, from the developers' point of view, the use of lower thresholds implies less pressure on larger sites to deliver affordable housing and a more even playing field for housing development.

**5.3.63** What the house builders seem to dislike more is change, especially where that change

is, from their viewpoint applied retrospectively to sites on which they have already paid for or taken out an option on the land.

**5.3.64** This point applies as much, if not more, to the amount of affordable housing negotiated on qualifying sites. The call to local authorities is for them to be '*clear and precise up front...*'. The criticism of current practice is that it can be, '*...an absolute lottery...*'. No two authorities are seen to adopt consistent policies and approaches and each authority can (appear to) change what it wants from one site and one year to another.

**5.3.65** A particular problem which authorities have to handle is the discontinuity between local needs assessments and plan timescales. We mention this here as it arose in particular in relation to thresholds and site targets but cover it in detail in Chapter Six.

## **5.4 Towards Better Practice**

**5.4.1** The general direction of local plan policy is almost exclusively one way - towards more prescriptive and lower thresholds. This is felt most in pressured market areas which generally means in the south of the country.

**5.4.2** In terms of producing better practice guidance, the first step will need to be an unambiguous re-statement of the policy framework set by DETR. This is particularly relevant in relation to the use of thresholds.

**5.4.3** As in the Rural White Paper, authorities with settlements below 3,000 should be reminded of the flexibility they are afforded in setting thresholds. Rural authorities need to reflect on the balance of affordable housing provided in their larger market towns and their smaller villages and identify thresholds which relate to robust local needs estimates, to the local economics of development and to other policies on rural exception sites.

**5.4.4** The justification for lower thresholds in smaller settlements should follow the same process as for urban areas (which we set out later in this section), albeit that in rural areas there is much greater flexibility.

**5.4.5** For more urban authorities the importance of 15 dwellings as the lower threshold is critical. Aspirations to go below this are growing in the south and any false expectations in this respect could slow down the plan preparation process. In justifying even this step the authorities also need to be reminded that high levels of need on its own is not a justification and that they will also need to demonstrate lack of supply. (the 'exceptional local constraints' set out in *Circular 6/98* paragraph 10.i).

**5.4.6** More generally there is a need for authorities to bring together the findings from their needs assessments and urban capacity studies and a better understanding of the economics of affordable housing development if they are to maximise the delivery of affordable housing. This applies equally to the development of their policy framework (including the development of thresholds) and the way they negotiate individual sites. Such advice will be consistent with that contained in the Good Practice Guide for Local Housing Needs Assessments.

**5.4.7** This need has also recently been set out in broad principle in the Regional Planning Guidance for the South East (RPG9 - March 2001). Policy H4 of the Guidance provides a very

clear resume of the factors which planning authorities need to consider in their plan making (and site negotiations) and could usefully be included in better practice guidance:

#### **Better Practice - Extract From RPG9 Policy H4**

*Local authorities should also:*

- *consider whether there is a need to seek lower thresholds as set out in Circular 6/98 (i.e. down to developments of 15 dwellings in urban areas). Where local authorities can demonstrate that local circumstances, particularly the likely viability of developments, justify adopting a lower threshold, they should bring forward proposals through their development plan process; and*
- *consider how they might use the exercise of an urban capacity study to help identify opportunities for increasing affordable housing provision. Options may include, for example, sub-dividing existing properties, conversions from other uses or identifying suitable empty properties or unfit housing in need of repair.*

**5.4.8** The above extract also highlights the importance for authorities of taking into account the potential re-use of vacant properties in their assessments of urban capacity.

**5.4.9** In making more detailed proposals for better practice, we have little in the way of specific practical examples to build on from the case studies.

**5.4.10** A suggested approach to the development of appropriate protocols and criteria is that they should cover evidence from:

- the most up to date housing needs surveys and/or other evidence of housing need on which the authority can draw (e.g. the housing register, local house price trends and relationship to income);
- the authority's housing strategy;
- results of urban capacity studies (showing likely contribution to housing from sites of different sizes, from brownfield and greenfield sites and from allocated sites and the likely flow from windfalls);
- analysis of site development economics; and
- results from monitoring exercises which show the amounts and sources of affordable housing achieved in the recent past and the use made of commuted sums (and what these have funded).

**5.4.11** In drawing together the above, authorities may need to seek guidance from the Housing Corporation (to assess likely levels of public support available), from housing associations active in the area, from the development industry and from independent valuation experts.

5.4.12 A possible step-wise methodology could be based on the following:

- **Step One** - Results from housing needs assessments to provide an initial view of the need for affordable housing (overall and any differences within the authority's area).
- **Step Two** - Results from the urban capacity study to assess numbers, type, location and size of potential future housing sites (including re-use of vacant properties) PLUS assessment of potential pattern of future windfall sites.
- **Step Three** - Assessment of contribution of 100% affordable housing sites. Discussions with the Housing Corporation and RSLs active in the area will be important here. It would be expected that the relevant information will be included in the authority's housing strategy for 2/3 years ahead but a longer term view (albeit that it can only be indicative) needs to be taken which relates to the plan period.
- **Step Four** - Calculation of amount of affordable housing which could be delivered for different combinations of thresholds and percentage delivery on each site (Circular 6/98 thresholds must be included in the range of threshold options tested). Suggest options limited to three or four main versions so that analysis is kept manageable.
- **Step Five** - Further refinement of above to test for different assumptions about development density. Combining Steps Three and Four should generate a matrix of say 10/12 options which could be presented in an options matrix as illustrated below:

Threshold options	Percentage on each site			
	15%		25%	
	At 30 dw per ha	At 50 dw per ha	At 30 dw per ha	At 50 dw per ha
25 dw	X dws	X dws	X dws	X dws
20 dw	X dws	X dws	X dws	X dws
15 dw	X dws	X dws	X dws	X dws

**Step Six** - 'Economic testing' of different combinations of site sizes (minimum above threshold) and percentage affordable housing on each ([see endnote 22](#)). This should be based on a matrix such as illustrated above. The economic testing stage will need to take into account other objectives of the authority which may result in other planning obligations being required (e.g. to fund school places) and the impact of difficult site development conditions (eg decontamination costs).

**Step Seven** - Refine economic testing to take account of anticipated levels of SHG for the area. A useful sensitivity test would be to estimate the implications of, for example, SHG at 100% TCI, without subsidy and whatever percentage of TCI considered to be the going rate for the area. Again discussion with the Housing Corporation and local RSLs will be important in informing this exercise.

- **Step Eight** - Identify matrix options which are viable in terms of development economics and the implications of different amounts of public subsidy available. Discount matrix options which prove not to be viable.
- **Step Nine** - Compare potential supply(ies) of affordable housing derived in Step Six with

assessment of need. If need is greater than any of the matrix options judgement will be required about which one to select. The option selected should maximise delivery of affordable housing and be robustly justified in terms of all three variables - density, threshold level and site percentages. Where need can be readily accommodated by at least one matrix option, the option selected should be that which is closest to the level of need.

**5.4.13** The above methodology provides a logical framework which can be used to identify and justify an authority's overall targets for affordable housing and demonstrate how this is to be achieved (in terms of thresholds used and contributions from qualifying sites). The authority's approach would be subject to public scrutiny through the usual local plan processes. It would also be good practice to discuss the approach and emerging findings in an open way with (potential) developers and RSLs, with the intention of reaching agreement on the facts.

**5.4.14** The framework would also help with subsequent site negotiations and give both authorities and developers a more transparent 'starting point' for such negotiations.

**5.4.15** It is appreciated that planning authorities may require external advice for the analysis of the economics of affordable housing development (Steps [Six](#)/[Seven](#) above) although the Council's own economic development or property departments may have the skills to assist. But advice taken at the plan making stage should provide the basis for subsequent site negotiations and be regarded as an important investment in the on-going process of planning for affordable housing.

**5.4.16** It could be possible for two or more neighbouring authorities, with similar market conditions to join forces and undertake a 'sub regional' analysis of development economics - in much the same way as for the assessment of affordable housing need.

**5.4.17** Once an economics of development framework has been established it will need to be kept up to date and regularly reviewed - say annually. The implications of such up-dates should be taken into account in subsequent site by site negotiations. Coupled with robust monitoring information of permissions granted and completions of affordable housing, updates to capacity studies and local needs assessments, this would provide authorities with the information needed for future plan reviews and can be used as an input to the more regular process of updating their housing strategies.

**5.4.18** We have already noted that none of the case study authorities had adopted such a detailed scientific approach as outlined above. However, we have found three authorities from the postal survey who have clearly been working on the same lines, albeit that our proposals are more detailed than the process they followed. Nevertheless, these examples demonstrate that a robust and logical process is not out of keeping with emerging authority thinking and suggests that guidance of this kind will find a positive response.

## **Endnotes**

**13** There are alternative uses of the term 'targets' which have been used both in terms of local authoritywide provision and for the amount of affordable housing to be achieved on individual sites. The majority view is the one we have adopted with targets relating to global provision across an authority.

**14** Our Countryside: The Future - A Fair Deal for Rural England (DETR 2000)

**15** Paragraph 5.4.2

**16** Local Needs Assessment: A Guide to Good Practice

**17** UDP Review First Deposit Draft

**18** This form of wording reflects the guidance set out in the 1992 version of PPG3

**19** i.e. London, South East and South West

**20** Authorities understand that district-wide surveys often cannot be used with confidence for detailed analysis of the need for affordable housing in individual small settlements and that settlement specific assessments either have to rely on further localised survey work or be backed up by other information sources e.g. analysis of the housing register.

**21** This is with the exception of the two case study authorities which seek external advice on development economics and one of the other postal survey authorities which refers to a 'a study of land economics' to help inform its approach.

**22** Chapter on Economics of Development provides specimen examples of scheme economics which

show the main factors to be considered in the economic testing stage.

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## **Chapter 6 - Supplementary Planning Guidance**

### **6.1 Introduction**

**6.1.1** According to the questionnaire returns 35% of local authorities with an affordable housing policy in their adopted plan have prepared supplementary planning guidance (SPG) related to affordable housing. Discussion with case study authorities confirmed that they saw considerable value in preparing SPG or issuing alternative documentary guidance (eg standard letters, briefing notes or the housing strategy) which provides information to developers, landowners and RSLs on how the policy should operate. This chapter focuses on the use of SPG in relation to affordable housing provision and sets out mechanisms by which SPG on affordable housing can be inter-related with the plan policy and the local authority's housing strategy.

### **6.2 National Policy Position**

**6.2.1** SPG has a discrete role within the planning system. PPG12 Development Plans (paragraphs 3.15-3.18) defines the role and function of SPG as follows:

- SPG must be consistent with national and regional planning guidance;
- SPG should provide supplementary information to existing plan policies and proposals; and
- plan policies should not attempt to delegate the criteria for decisions on planning applications to SPG or to development briefs.

**6.2.2** SPG should not deal with matters which fall outside the remit of the planning system, nor should it be used to bring forward policies on planning matters which go beyond those set out in the Local Plan or UDP.

### **6.3 Findings and Issues**

**6.3.1** SPG on affordable housing therefore exists to provide more detailed guidance on the operation of the policy than is possible within the confines of the Local Plan or UDP. SPG will typically deal with the following items:

- definition of affordable housing;
- financial implications of affordable housing provision;
- usage of commuted sums (if appropriate);
- mechanisms for securing long-term affordability;

- design considerations;
- selection of RSL partners;
- negotiation of exceptions sites; and
- the administration of the affordable housing policy (who to contact, what information is required, how the local authority handles affordable housing matters).

**6.3.2** A minority of local authorities appear to be using SPG to go beyond the policy contained in the plan and to give prescriptive advice on matters such as the cost of affordable housing to the RSL, development to Lifetime Homes Standards and use of local authority preferred RSL partners, which do not appear to us to fall within the legitimate scope of SPG. We also found occasional authorities who had used SPG to go beyond the plan policy in terms of guidance on affordable housing quotas and who had, for instance, introduced a percentage target in the SPG which was not contained in the adopted plan. It is our understanding that in some cases SPG containing these types of clauses has been criticised by both the Government Office and the house building industry, has subsequently not been adopted, but is still being used as unofficial guidance on the local authority's affordable housing policies.

#### *Relationship Between SPG And The Local Plan Or UDP*

**6.3.3** SPG which has been subject to public consultation and agreed by the Council is a material consideration in planning law. Draft SPG carries much less weight. Those local authorities which were relying on SPG in the absence of a formal policy in the Plan were aware that they were in a weak negotiating position. A handful of case study authorities reported that although they had prepared draft SPG this had not been formally adopted and was unlikely to be. Again this left the authority in a relatively weak negotiating position, although it was argued that this was better than having no guidance at all.

**6.3.4** 50% of authorities who returned the questionnaire have Local Plans which predate both Circular 6/98 and PPG3. This is of course a short-term and historic problem. A couple of authorities have chosen to use SPG to update the plan policy in line with most recent government policy. Whilst we can see the temptations of this course of action in terms of clarity, ease and swiftness of administration, SPG used in this way, does not carry the policy weight associated with formal Local Plan review. Local authorities in this situation who wish to amend their plan policy on affordable housing would be better advised to go for single issue Local Plan Review.

#### *Relationship Between The Adopted Plan, SPG And The Housing Strategy*

**6.3.5** The provision of affordable housing through the planning system requires co-operation between local authority housing and planning departments. Both have an input to the process and both may issue formal documentation dealing with policy implementation, the former through the housing strategy statement, the latter through the Local Plan or SPG.

**6.3.6** Both sets of documentation require formal consultation. Consultees should be, but are not always, the same. It would be good practice if they were and more particularly if

consultation on the housing strategy statement could include the house building industry and receive the same type of detailed response as does the Local Plan.

**6.3.7** Local plans should be reviewed every five years. General principles relating to affordable housing provision should not change over that period. However economic circumstances do change and this will have an impact on affordability and financial viability. These issues are already covered in the local authority housing strategy which is prepared annually and subject to wide consultation. This may be the most appropriate format in which to update guidance to developers and RSLs on affordable housing issues relating to potential demand for affordable housing, priority groups and availability of public subsidy as well as monitoring progress to date.

### **Relationship Between General SPG And Other Development Briefs**

**6.3.8** As well as general SPG on affordable housing it is customary for a local authority to prepare additional planning guidance in the form of a development brief for major or complex sites. Site specific development briefs are not a substitute for SPG but should rather complement it by setting out how the local authority's general affordable housing policy will be affected by locational and development considerations related to the site. Development briefs should not be used to impose more onerous conditions than would normally be applied across the portfolio of sites available in the Borough.

## **6.4 Towards Better Practice**

**6.4.1** The provision of detailed guidance on the operation of planning policy on affordable housing is helpful to all concerned. It should be subject to public consultation and this should normally be done through the preparation of SPG, although some local authorities have used other mechanisms. The housing strategy statement may play a part in reporting progress and updating economic information (see [Table 6.1](#)).

**6.4.2** SPG should be firmly based on policies contained in the plan. It should not be used to amend plan policy.

**6.4.3** Matters suitable for inclusion in SPG might be:

- financial implications of affordable housing provision;
- usage of commuted sums (if appropriate);
- mechanisms for securing long-term affordability;
- design considerations;
- selection of RSL partners;
- negotiation of exception sites; and
- the administration of the affordable housing policy (who to contact, what information is required, how the local authority handles affordable housing matters).

**6.4.4** Large complex sites may require development briefs: these should not go beyond the affordable housing requirements set out in the adopted local plan or UDP and any more general SPG.

**6.4.5** Economic matters related to affordable housing should be updated through the annual housing strategy statement which should be subject to the same consultation process as SPG and the local plan. House builders, landowners and RSLs should recognise the need to respond to the housing strategy statement in the same way as they would to a local plan or SPG.

<b>Table 6.1: Providing Policy Guidance on Affordable Housing</b>		
<b>(a) Broad Policy Principles</b>	<b>Local Plan or UDP</b>	<b>Consultees:</b> RSLs Developers Landowners Community Groups
(b) Boroughwide mechanisms for implementation covering: <ul style="list-style-type: none"> <li>• Financial implications</li> <li>• Exceptional use of commuted sums</li> <li>• Mechanisms for securing long-term</li> <li>• Affordability</li> <li>• Design and density related issues</li> <li>• Selection of RSL partners</li> <li>• Negotiation of exceptions sites</li> <li>• Contact points within the LA</li> </ul>	<b>SPG</b>	Consultees as above
(c) Site specific guidance	<b>Development Brief</b>	Consultees The Landowner The Developer Participating RSLs

		The wider community
(d) Specific matters relating to monitoring Economics of housing provision and need for affordable housing	<b>Updates via the annual Housing Strategy</b>	Consultees: RSLs Developers Landowners Community Groups

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## Chapter 7 - Section 106 Agreements

### 7.1 Introduction

**7.1.1** Section 106 agreements are integral to the provision of affordable housing and we found that, almost invariably, a permission for the development of a mixed tenure site will be accompanied by such an agreement. *Circular 6/98* recognises the importance of this and reminds local planning authorities that planning obligations, '*...should fulfil a proper planning objective.*' (paragraph 30) This chapter reviews the approach, content and process of Section 106 agreements.

### 7.2 National Policy Position

**7.2.1** Paragraph 30 of *Circular 6/98* is very clear that obligations, '*...should not be used to control matters such as tenure, the rent or purchase price payable by prospective occupiers, or ownership.*' Possible approaches to the use of conditions and obligations are described, emphasising that these are only examples and that the use of any condition or obligation and their precise form must always have regard to the circumstances of each case.

**7.2.2** Dealing with the situation where a site is developer-led and a proportion of the units are to be transferred to a RSL (or land is to be transferred from the developer to a RSL), the Circular gives three main examples of possible approaches to conditions or obligations (paragraph 33). These are, in brief:

- phasing of development to ensure that the affordable housing element is made available at the appropriate time;
- restriction of occupation of the affordable element to households in need of affordable housing (with a variant relevant to rural exception sites developed which will be both developed and managed by an RSL); and
- provision of an alternative form of affordable housing (eg low-cost market housing) if funding for publicly subsidised affordable housing is not forthcoming by a specified 'cut-off' date.

**7.2.3** The Circular also defines the situations where conditions or obligations will be inappropriate. Importantly the Circular also notes that, '*Planning obligations should not include positively-worded requirements to transfer interests in land or the transfer of such interests*' (paragraph 33, note ii).

**7.2.4** Paragraph 34 provides similar examples to the first two set out above where the developer is to provide an element of affordable housing but no RSL is involved.

**7.2.5** A key criticism of the approach adopted by local planning authorities to planning obligations has been a lack of transparency, '*... there just hasn't been that openness which there needed to be in the negotiations*' (Focus group contributor). This criticism has already

been recognised and PPG3 sets out the need for decisions involving affordable housing contributions to be '*...transparent and accountable: all parties should know the full basis for planning decisions, including planning obligations agreed in order to make housing proposals acceptable*' (paragraph 20 PPG3).

**7.2.6** Local planning authorities now have to ensure that full information about planning obligations involving affordable housing contributions is placed on the statutory planning register.

## 7.3 Findings and Issues

### Overall Approach

**7.3.1** The postal survey highlighted two important points. First that authorities vary greatly in their experience of negotiating Section 106 agreements (some authorities are very experienced, some have very little and 11% from the postal survey results were shown to have none) and secondly that the organisation of the negotiating team and lead departments are also very variable. The tables below illustrate this.

<b>Table 7.1: Numbers of Section 106 Negotiations Concluded or Under Negotiation</b>		
<b>Region</b>	<b>Average - Concluded</b>	<b>Average - Under Negotiation</b>
Greater London	9.3	2.2
North West	3.3	N/r
South East	4.3	4.4
South West	4.3	3.1
West Midlands	7.1	3.4

**7.3.2** At the time of the survey, under half (34) of the local authorities who responded had an agreement under negotiation. Authorities in the North West were least likely to be in this position.

**7.3.3** Indeed, only 30% of authorities in the North West had concluded a Section 106 agreement relating to affordable housing in the previous two years. This compares with 67% of London Boroughs responding to the postal survey and 64% of authorities in the South West.

**7.3.4** The other clear message from the postal survey is that Section 106 agreements are the dominant way in which planning obligations for affordable housing are dealt with. Only five local authorities had accepted a 'unilateral undertaking involving affordable housing' since 1st April 1998.

<b>Table 7.2: Conducting Section 106 Agreements</b>	
<b>Best description of the way in which Section 106 agreements are usually conducted</b>	<b>All regions (64 responses)</b>
No experience of negotiation of Section 106 for affordable housing	11%

Planning Dept leads on negotiation, with advice from Housing Dept	47%
The Housing Dept leads on negotiations, with advice from Planning Dept	5%
Housing & Planning Depts undertake negotiations together	25%
Legal Dept leads the negotiations	5%
Other mechanisms	7%

**7.3.5** The case studies have suggested that the lead department in negotiating Section 106 agreements is of limited significance in practice.

*'...not a big issue...development control leads and involves the lawyers...'*

*'...legal leads and housing and planning get involved...'*

*'...planning leads with support from legal service.....'*

**7.3.6** Only one authority commented on the difficulty their own arrangements could cause. Here the housing department leads in negotiations but the planning department instructs the Council's lawyers and good communications were said to suffer on occasion.

**7.3.7** What proved to be more important is that there is good communications between the housing and planning departments and with the lawyers - whoever is (notionally) in the lead. Good working relations within an authority also need to extend to the way the authority negotiates with developers. A typical example of how this worked well in practice came from one of the London authorities.

#### **Case Study 1**

A specialist from the housing department is called in whenever a developer approaches the planning department for pre-application negotiations. The Council has an arrangement which ensures that development control officers alert the housing department whenever a residential application exceeding the authority's thresholds is submitted ('a belt and braces approach'). The authority encourages meetings with the developer throughout the 'life of application' to establish 'a good dialogue about affordable housing provision.' This approach continues until the Section 106 agreement is signed. But, because of the positive approach to negotiations adopted at every stage, the process of agreeing the actual Section 106 is usually straightforward - all the important questions have been addressed by the time the application is presented to committee. Importantly, the RSL which will manage the affordable housing is asked for their comments at this stage.

'The Council wants transparency and good relations with the developer...it believes that this is the best way of achieving most affordable housing...' (Planning Officer)

**7.3.8** This example is from an authority with a great deal of experience in securing affordable housing through the planning system. However, many of the authorities we interviewed had very little experience and the whole process of negotiation could be very troublesome. At one

of the focus groups a representative of the development industry pointed out that planners, through no fault of their own, were placed at the centre of the mechanism of negotiating Section 106 agreements, despite not having the training to deal with such negotiations: *'Often the parties who having to make the deal work are the developer and the RSL, and yet the planner is cast in this role as mediator, and then withdraws and leaves them the deal which sometimes is quite difficult for those who are left to operate it to do so'*. [sic]

**7.3.9** Certainly, from the development industry point of view, Section 106 negotiations are one of the most contentious and difficult aspects of the process. One of the developers attending a focus group said that he *'personally, .....has never come across a Section 106 that was straightforward. ...It's all been down to a bit of a battle... ...you very rarely find the council speaking as one.'*

**7.3.10** Linked to this, the other complaint from developers is the length of time Section 106 agreements take to get agreed - *'...some local authorities are very slow.....can take a year to get sorted...'* (house builder consultee).

**7.3.11** The postal survey showed that average time for negotiating agreements is about 6 months. There are some regional variations in this, as the table below indicates, with authorities in the North West taking longest - possibly because they also tend to be the authorities with the least experience. Otherwise regional variations are not that significant - especially given the small size of the sample (with only 19 replies in total to the question).

<b>Table 7.3: Average Time to Conclude a Section 106 Agreement</b>	
<b>Region</b>	<b>Months</b>
Greater London	7.3
North West	6.5
South East	5.3
South West	12
West Midlands	4.5

**7.3.12** Local authorities (both in the postal survey and the case studies) said both that the time to conclude agreements varied significantly from scheme to scheme and that the developer's attitude was often to blame for delays, for example:

*'....only two Section 106 agreements concluded to date - one took one year, other 19 months'*

*'....depends on the attitude of the developer/land owner/mortgagee'*

*'...varies by site.....circumstances and speed of developers' solicitors'*

*'...No scheme is 'typical'.*

**7.3.13** On the other hand, the developer's main criticism of the authorities is the lack of a standard and consistent approach - *'...re-drafting and re-inventing the wheel...stupid...a waste of time'*. The authorities are also critical of the developer's lawyers ('going through line by line...') but also believe that developers can attempt to re-negotiate the principles of the

affordable housing provision, which the relevant committee has already accepted - *'some will get on with it...others will wrangle...'*.

**7.3.14** No single set of rules has emerged which define an efficient negotiating process but a number of qualities that can help here can be identified.

**7.3.15** Discussions between developer and authority at an early stage are important so that as many details as possible are agreed before an application is taken to committee. The level of agreement at this stage varies between authorities but most want to have agreed the number and tenure of the affordable housing provision, leaving matters such as the phasing and location of the affordable housing to the Section 106 agreements. Others want more sorted out by this stage so that, as one case study authority put it, the Section 106 agreement is merely there to stop the developer 'wriggling out' of what they have agreed and presented to committee.

**7.3.16** *Circular 6/98*, paragraph 30 says that conditions and planning obligations should not be used to **control** matters such as tenure (our emphasis). Tenure is properly a matter for negotiation between the developer and the local authority. Since a planning permission goes with the land but a Section 106 agreement is specifically between the parties involved, we have concluded that tenure is something properly to be agreed through negotiations.

**7.3.17** In practice, authorities (and applicant) will likely want to know what tenure is to be provided before an application is presented to committee for a resolution to grant permission (subject to a satisfactory Section 106 agreement). Therefore tenure is a matter which should be properly discussed and agreed in principle by this time (even if it does not form part of the permission itself).

**7.3.18** Two of the case study authorities go further even than this and organise things so that the application cannot be taken to committee until the Section 106 agreement is ready. These authorities argue that this streamlines the process and takes away any opportunity to renegotiate a committee agreement. One authority also commented (and as set out in their SPG) that they have taken this step to avoid repetition of past situations when developers started work without the necessary agreements.

**7.3.19** When the option of 'double tracking' was put to other case study authorities, their view was that there would be no advantage - the total time taken would be the same and there was more chance of abortive work.

**7.3.20** However, double-tracking allows the authority and developer to deal with all the important aspects of the proposed scheme at once - including tenure and the involvement of an RSL. We believe that this is advantageous all round and include it in our better practice recommendations.

**7.3.21** There is wide variation in the use of standardised or model Section 106 agreements. The postal survey indicated that only 16 authorities (or some 20% of the sample) have a standard Section 106 agreement - ten of these were in the South East.

**7.3.22** But the case studies demonstrated that some of the most experienced authorities still draft a new agreement on every occasion. For less experienced authorities this might be

understandable - with only infrequent use of such agreements - but it is somewhat surprising that more active authorities spend legal time drawing up new agreements every time an affordable housing scheme arises.

**7.3.23** Some model agreements are, in truth, no more than a copy of the most recently used agreement whilst others have standard clauses which can be used. The most sophisticated version of a model Section 106 agreement we found is a fully structured agreement which is used on every occasion, presented in the authority's published guidelines and can simply involve the completion of a number of shaded boxes for it to be finalised.

#### **Case Study 2: Basingstoke and Deane**

The authority issues supplementary planning guidance (in the form of a Best Practice Note) which explains to developers and RSLs the role which a Section 106 agreement will have in the process of securing planning permission and the timetable to be used for its completion. The BPN sets out the matters that will be covered in the agreement. These include:

- The location of the affordable housing
- A timetable for its provision
- Transfer of the affordable housing land to a RSL (where applicable)
- That the affordable housing should be used to meet local need
- That the housing provided shall be used solely for affordable housing

The authority has a family of model S106 agreements for both 'mainstream developments' and those on 'rural exception sites'. A named contact officer is given in the draft so it is clear with whom the developer needs to talk.

**7.3.24** This very prescriptive approach had its critics but overall was seen as a good approach and we are putting it forward as an example of better practice. It offers a very clear view of what the authority expects and allows early sight by the developer's lawyers of the agreement they would be asked to sign.

#### *Content Of Section 106 Agreements*

**7.3.25** Beyond the usual legal points about identification of the parties and the site in question and the actual amount and tenure of the affordable housing to be delivered, two different components of Section 106 agreements were raised as issues during the research:

**7.3.26** The first is the need to ensure that the land or dwellings in question are handed over to the RSL at a particular time in the development process e.g. before occupation of the Xth market unit. Some authorities had been caught before when the developer could, quite legally, build-out an entire site before meeting his/her affordable housing obligation. The examples

shown in *Circular 6/98* should be helping here but authorities have not always been rigorous in dealing with this. Our case study example shown above demonstrates how clarity in the process can help.

**7.3.27** Second, there have emerged very different views on whether RSLs should be a party to the agreement (recognising that in some cases no RSL will be identified with whom to negotiate). In some authorities they are, in others they are not. The RSLs can be totally excluded from all negotiations, with the authority arguing that they are fully able to look after interests of the RSLs.

**7.3.28** The housing associations we spoke to have reservations about this latter practice and sometimes find they need to renegotiate the agreement when it is presented to them. The associations want to be '*...in at the start...*' so that their interests can be properly reflected.; or even more worryingly, report concerns that affordable housing may be agreed on sites in locations where they have no need for more units.

**7.3.29** A second complaint raised by developers is that authorities are specifying which RSL they are to work with - for whom they are to build their affordable housing units or to whom they are to transfer land.

**7.3.30** A developer at one of the focus groups exemplified these concerns, 'It often seems to be a cartel sort of system being operated, which is wrong, and it's unfair. We have suspicions that generally this is because LAs will have agreed percentage nominations rights, or a high percentage of nominations rights, not only on the initial lettings of homes, but also on future lettings'. This situation can put the developer in a position where they are unable to negotiate towards a proposal which offers best value for all parties. They may have established and effective working relationships with a particular RSL but find themselves unable to work with them in a particular area if the local council has its own views on which RSLs are to operate there.

**7.3.31** We raise this issue here as it was felt most keenly in respect of the process of Section 106 negotiations. Chapter Ten 'Working with Social Registered Landlords' looks at relationships between authorities, developers and RSLs in more depth and recommends better practice, relevant to Section 106 negotiations.

## **7.4 Towards Better Practice**

**7.4.1** We re-emphasise the importance of clear guidance on local authority expectations, thorough pre-application discussions and good corporate working within authorities as general points pertinent to good practice in relation to Section 106 agreements.

**7.4.2** It then seems unnecessary to be prescriptive about the process for negotiating Section 106 agreements in terms of which departments should take specific responsibilities. However, the roles played by the planning, housing and legal departments must be closely coordinated. Better practice means a strong corporate approach which ensures that the authority provides a consistent and clear picture to the developer.

**7.4.3** Good corporate working can rely on open channels of informal contact but regular planned liaison between departments, to check formally on progress with negotiations, can

also serve a useful purpose. It would be wrong to be prescriptive about this but formal and regular liaison does prevent possible problems 'slipping through' and is to be encouraged.

**7.4.4** In terms of the relationships between what is presented to the planning committee for approval and what is left to the Section 106 negotiations to resolve we propose that the following should all be agreed at committee stage:

- number of affordable housing (or off-site provision or acceptance of and amount of payment in lieu);
- location of on-site provision;
- phasing of affordable housing development in relation to market housing (or at least when affordable housing or land for affordable housing is transferred to the RSL or other provider); and
- criteria for access to the affordable housing - certainly in the case of rural exception schemes but possibly also for mainstream schemes.

**7.4.5** We also recommend that at this stage the principles of the Section 106 agreement should be agreed between the authority and the developer and be presented to the committee. This should include the tenure of the affordable housing to be provided, any arrangements Delivering Affordable Housing through Planning Policy for low cost sale ([see endnote 23](#)) and shared ownership and, wherever possible and relevant, the name of the organisation which will own and manage the affordable housing. Where there is a named organisation, their agreement to these principles should also be sought at committee stage.

**7.4.6** Some authorities may choose to go further and have Section 106 agreements ready to sign. We do not consider this essential.

**7.4.7** Model Section 106 agreements are to be recommended. The better practice example quoted earlier provides useful illustrative material on this.

**7.4.8** Model agreements should be publicly available and used, at least as a starting point. Good practice guidance should set out what a model agreement can cover, reminding authorities of the specific advice in *Circular 6/98* of what should **not** be covered by them. The financial arrangements between a developer/land owner and RSL are one such matter.

**7.4.9** It is then up to each authority to design their own agreement in detail. This should be done in consultation with local developers and RSLs.

**7.4.10** Where there is a known RSL (or other provider) we recommend that they are party to the agreement and involved in the negotiations to conclude the Section 106 agreement.

**7.4.11** We have outlined the process which we are recommending and attempted to be clear about what aspects of the negotiating process should be dealt with at different stages. We assume that everything proposed is lawful but further DETR guidance on this may be

necessary.

**Endnotes**

**23** For example, the level of discount against market value and mechanisms for allocating the housing and retaining it as low cost in the long term.

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## Chapter 8 - Economics of Development

### 8.1 Introduction

**8.1.1** The economics of development was not an issue specifically highlighted in the Study Brief. Nor did it emerge from the Scoping Survey. Therefore it was not directly covered in the Postal Survey. However, development economics did emerge as an issue of substance from the case study interviews and, as we recognised its central importance to this Study, we probed in more detail. This Chapter, then, provides a more qualitative review of (better) practice than the other report chapters. However, given the importance of what we have found, its relevance to policy and practice in delivering affordable housing should be given full weight.

### 8.2 Policy and Practice

**8.2.1** Any requirement for affordable housing must take account of the economics of provision (paragraph 10 Circular 6/98). In practice these will be influenced by the total value of the sale of housing developed, the cost of developing the site (including any other planning gain requirements) and the payment which the developer receives for the affordable housing element. This, in turn, is often dependent on the availability of Social Housing Grant (SHG).

**8.2.2** The financial impact of affordable housing provision will vary depending on the type of affordable housing sought and the level of payment they generate to the developer. Different tenures imply different levels of cross-subsidy between the market sale and the affordable housing product (be it social rent, shared ownership, sub market rent or low cost market housing). Whatever the tenure, the provision of affordable housing on a site will, at the very least, affect the developer's profit on that part of the site. It will also impact on land value and taken together with costly remediation, infrastructure or planning obligation requirements, may adversely affect overall financial viability.

### 8.3 Implementation Issues

#### *Relevance*

**8.3.1** The development economics of affordable housing is potentially important across a number of aspects of policy development and implementation:

- in determining the thresholds for qualifying sites;
- in determining the policy approach to target percentages to be sought on identified sites;
- negotiating site specific percentages of affordable housing (and the tenure mix); and
- negotiating commuted sum payments for individual sites.

**8.3.2** We deal with each of these in more detail in the relevant specialist chapters but in this

chapter we make a number of general points about the economics of development.

### *Plan Policies*

**8.3.3** Plan policies on thresholds and target percentages for identified sites are not underpinned by robust analysis of the economics of development in the area. Not one of the case studies pointed to any economic analysis undertaken to demonstrate that the thresholds or target percentages in adopted or emerging plans were robust in economic terms. Their justification was based solely on other factors - typically, housing need, land supply, access to SHG and established policy (notably *Circular 6/98*). We recognise the importance of these factors. Our point is that development economics was not one of them.

**8.3.4** We found that local authorities were aware that development economics was an issue in practice. Several case study authorities had aspirations to raise target percentages on qualifying sites. These, though, were often tempered by a fear that pushing up requirements might make sites uneconomic to develop and this would deter housing development altogether, especially when there are equally lucrative alternative uses (notably in large urban centres).

*'...would this impact on viability?'*

*'...having difficulty getting this upped'*

*'...concerned if ask for more we will lose developer interest'*

**8.3.5** However, there is very little evidence that either the authorities' current approach nor their aspirations are backed up by any scientific appraisal of development options and we found only two clear-cut examples where expert external advice has been sought on the economics of affordable development and hence what amounts to a reasonable requirement. Both examples related to individual site negotiations rather than general policy setting.

### *Current Practice In Site Negotiation*

**8.3.6** Where robust economic justification is not available there are clear potential difficulties. Developers complain that authorities are being unreasonable and asking for too much from development sites, particularly those which are complex difficult to develop brownfield sites. On the other hand, local authorities do not know whether it is realistic to ask for 25%, 30% or 40% affordable housing and several of our local authority consultees spoke of having 'the wool pulled over our eyes' by developers. There were also signs of tension between development control and plan policy staff: with the former complaining that the latter did not understand the practical implications of local plan policies and expressing fears that unrealistic requirements could jeopardise potential developments which the local authority was keen to encourage. This was particularly likely to be the case in regeneration areas outside buoyant housing markets.

**8.3.7** The following quotes from local authorities give a flavour of current negotiations:

- *'It's a horse trade'*
- *'We know when to push and when not to push, but don't ask me how'*

- *'It's hard to tell if we have had the wool pulled over our eyes'*
- *'The Chief Exec and the developer did a deal - don't ask me to justify it'*
- *'Our valuer said we should get £3m, but when we talked to the developer we found they had paid far more than we expected for the land and we settled for £300,000'*
- *'We've had several big greenfield developments now and we have arrived at a going rate for overall planning gain - including affordable housing - of about £10,000 per dwelling'*

**8.3.8** What emerges is a random uncosted process or the establishment of a 'going rate' with little clarity on either side that the going rate is justified by anything more than custom and practice. In some cases this leads to the acceptance of a commuted sum because the alleged 'surplus' in the overall development is insufficient to fund a meaningful social housing scheme and the local authority is unwilling to consider any other form of affordable housing.

**8.3.9** Some authorities take a very prescriptive approach, specifying either land values (typically based on a multiple of agricultural value) or what the RSL can pay (normally using a TCI based formula). Such formulae could be said to fall outside the legitimate scope of the planning system and have consequently proved contentious. We heard arguments from the development industry that this has led to a reduction in overall development in the areas concerned.

**8.3.10** Developers approaches however are equally mixed. Some developers still claim that when they bought the land they were unaware of the financial implications of affordable housing provision. Others say that they would welcome clarity but not 'greed'. Clearer guidance in SPG and development briefs by local authorities does have the benefit of removing uncertainty. However such guidance is only meaningful if it has been properly costed and if its legal status is clear to all.

#### *Shortage Of SHG*

**8.3.11** For some local authorities this is a real issue and one which is likely to worsen as provision of affordable housing through planning increases the supply of potential sites without a concomitant increase in SHG funding.

*'At the moment we can just about balance development through Section 106 schemes with supply of SHG. But there are some large developments in the pipeline. I don't know how they are going to be funded.'*

**8.3.12** We found a number of examples of quite detailed formulae specifying developer contributions. These are normally outlined in the context of the payment of commuted sums, but since the availability of SHG should not vary between on-site and off-site provision it would seem reasonable to assume that this is the negotiating stance which the local authority takes in relation to all affordable housing schemes. It is our understanding that the planning process has no locus to provide such detailed guidance on financial matters. As stated earlier (paragraph 7.4) clarity can be helpful to negotiation, but respondents have told us that such prescription is unlawful. Nonetheless a significant number of authorities have developed

formulae for assessing developer contributions and we explore these in more detail below.

#### *TCI/SHG Based Formulae*

**8.3.13** A number of local authorities make reference to a formula based on the Housing Corporation grant regime. This methodology is based upon a formula devised by LPAC in 1997 ([see endnote 24](#)) and on Housing Corporation Circular F2 42/98 ([see endnote 25](#)) which states that:

*'The basic objective of developer contributions, whether or not the scheme also receives Social Housing Grant funding, is to provide **additional** affordable housing, either directly or by reducing SHG requirement. In some cases where a developer provides affordable housing directly on site for sale to an RSL, the price will be set at a level where no SHG is required. Similarly where a cash payment is made in lieu of affordable housing, either directly or via the local authority, the subsidy may be sufficient to avoid the need for SHG.'*

**8.3.14** As interpreted by local authorities this means that where SHG is not available (and in some cases where it is) the developer should make a financial contribution equivalent to the Social Housing Grant which would otherwise have gone into the scheme. We do not agree with this interpretation of Circular F2 42/98 which appears to us to allow for a range of different forms of developer contributions. We would also query whether a Housing Corporation circular which is primarily intended to provide an accounting formula for use by RSLs and the Housing Corporation is a material planning consideration.

*'Where a financial contribution in lieu of actual on-site provision of affordable housing is justified and accepted, the contribution will be calculated on the following basis. This is based on the equivalent public subsidy element for affordable housing:*

*Formula: TCI £ per unit x % SHG x no. of affordable units*

*Where:*

*TCI = Total Cost Indicator (TCI) for each type or unit of accommodation, being the current TCI published by the Housing Corporation applicable to that type of unit, adjusted as necessary by appropriate Key and Supplementary Multipliers*

*SHG = Social Housing Grant. SHG is normally expressed as a total proportion of scheme costs which will be funded by the Housing Corporation or Local Authority. However since these actual costs are unlikely to be known when calculating contributions in lieu, it seems reasonable to use TCI figures.'*

**8.3.15** In variants of these policies individual local authorities have sought to apply the same principle but at a lower rent level and seeking a lower percentage of affordable housing (e.g. 15% rather than 25%).

**8.3.16** Tower Hamlets has gone further and specified that the RSL will pay the developer only the capital sum which can be serviced by rent capped net rents in the Borough. This approach

is potentially costly because of the differential between TCIs and market values which is particularly pronounced in Inner London. It yields subsidy requirements of £45-100,000 per dwelling. Except in areas of extremely high land value these costs would appear to be generally prohibitive if taken in conjunction with a 25% affordable housing target.

**8.3.17** Tower Hamlets, in an approach which has been copied by a number of other local authorities, also specifies that where affordable housing provision is off-site the affordable housing requirement will amount to 33% of the original scheme.

*'the 33% effectively represents the two 25% portions for the on-site and off-site developments, built on only the off-site development.'*

#### *Discount On Market Value*

**8.3.18** This approach is much less common, but makes sense where a local authority recognises that low-cost market housing can make a contribution to meeting affordable housing need:

*For a development of 100 houses with a market price of £65,000, the calculation would be:*

<b>Affordable Housing Quota</b> <i>(25% of site capacity)</i>	<b>x</b>	<b>Discounted Market Price</b> <i>(30% of market price)</i>	<b>= Developer Contribution</b>
25 houses	x	£19,500	= £487,500

**8.3.19** In this case the subsidy required from the developer/landowner is approximately three quarters of what it would be using a TCI based approach. Again a clear policy but one on whose lawfulness we are not qualified to comment.

#### *Land Value Based Approach*

**8.3.20** Some local authorities, particularly those with significant greenfield development, have adopted an approach which says that land must be made available at either a nominal cost (£1) or at a multiple of agricultural value (typically five x agricultural value). Again the cost of this to the developer will vary depending on the proportion of total development value which is accounted for by land value and again the legal status of the policy is unclear.

### **Overview**

**8.3.21** There is clearly an argument for establishing ground rules for negotiation about the cost to the RSL of affordable housing. But there is no legal basis for prescription. We found no evidence of consistency of approach between local authorities. There was some evidence that concerns about lack of SHG underlay the approach taken by many, but nowhere did we find any clear explanation as to why the developer/landowner should be expected to bridge the funding gap thus created. Local authorities, developers and RSLs all indicated to us that they were unclear about the legal justification for prescriptive policies. The fact that such policies were normally contained in SPG and not in the Local Plan or UDP also gave grounds for concern. We understand that such aspirations are the grounds for vigorous debate between house builders and local authorities and we are not surprised that this should be the case.

**8.3.22** Evidence from the case studies would suggest that those local authorities who had good dialogue with landowners and developers (eg Reading and West Oxon) were more likely to adopt a realistic and flexible approach to subsidy requirements and hence to achieve a successful outcome to negotiations. They were confident they knew their market. However even these successful authorities referred to potential problems with lack of SHG. Nationally the Housing Corporation Approved Development Programme will increase from £691m in 2001/2002 to £1.236m in 2003/2004. This should assist with delivery of affordable housing through planning, particularly if resources are concentrated in those areas which have minimal difficult to let stock. However access to SHG is likely to remain a potential difficulty in negotiation between local authorities and developers.

## 8.4 Towards Better Practice

**8.4.1** Local authorities should improve their understanding of the economics of their local housing and land markets. Those local authorities who had established an effective dialogue with landowners and developers were more confident in their dealings with the private sector and were more likely to adopt a 'realistic' and flexible approach to subsidy requirements and hence to achieve a successful outcome to negotiations. They were confident they knew their market and were not being 'stitched up'. The establishment of a landowners and developers forum, possibly complemented by a private landlord forum is one mechanism for doing this. Such fora could also serve as sounding boards for the development of SPG and the Housing Strategy.

**8.4.2** It may be appropriate to seek to develop a model at local level of the cost of a range of different types of affordable housing provision. This could be undertaken in conjunction with the Housing Needs Survey or as a separate exercise. A specimen financial calculation is provided below.

**8.4.3** Local authorities should automatically cost up their affordable housing requirement for both on-site and off-site provision and should include this information in either SPG or a development brief. The developer contribution required should normally be the same in both cases, unless the local authority wants to introduce a financial incentive to a particular course of action. Any decision about the use of commuted sums should then be based on housing need, not on financial impact on the development.

**8.4.4** Availability of SHG is an issue. Where SHG for social housing for rent is not available local authorities should work with local RSLs, estate agents and developers to assess demand for low cost-home ownership and/or key worker rented housing before automatically seeking SHG equivalent funding from developers.

Table 8.1: Worked Example of Financial Appraisal using 2001-2002 TCIs and Grant Rates		
62.5 sq m flat 3-4 person occupancy	Open market value	£72,500
	Build cost	£50,000
	Infrastructure	£5,000
	Planning gain	£10,000
	Decontamination	nil

	Builder must sell for	----- £65,000
Cost Group C	TCI (less RSL oncosts)	£67,250
	Land value (open market)	£7,500
	Land value (affordable housing)	£2,250
50.5% of TCI half rental TCI	SHG required	£33,961
	Social rent	£16,981
	Shared ownership	
	Payment to developer if no SHG	£33,289
	Social rent	£50,269
	Shared ownership	

**Endnotes**

**24** "Consultation response to cash in lieu: report no. 40/97 and supplementary advice" ( LPAC 1997)

**25** Currently being rewritten, though not substantially changed

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## Chapter 9 - Use of Commuted Sums

### 9.1 Introduction

**9.1.1** Government policy is clear that provision of affordable housing should normally be on site. If a site is not suitable for affordable housing then there should be no requirement for an affordable housing contribution off site. Only in exceptional circumstances will financial contributions be acceptable. This chapter examines the circumstances in which commuted sums have been used.

### 9.2 National Policy Position

**9.2.1** Initial guidance was provided in Circular 6/98 (paragraph 22)

*'If authority and developer both consider that on particular sites where an element of affordable housing would be appropriate, it is nonetheless preferable that a financial or other contribution should be made towards provision of affordable housing on another site in the area they should ensure that this will actually result in the provision of affordable housing in the area.'*

**9.2.2** This guidance was then updated and clarified in PPG3 (paragraph 17)

*'Where a local authority has decided .... that an element of affordable housing should be provided in development of a site, there is a presumption that such housing should be provided as part of the proposed development of the site. Failure to apply this policy could justify the refusal of planning permission.'*

**9.2.3** Agreement between developer and local authority remains key to the policy. It is not the case that the developer can unilaterally offer a commuted sum or that a local authority can prescribe the circumstances in which one can be offered.

**9.2.4** Primary legislation on planning agreements is also key to an understanding of what can be achieved through a Section 106 agreement. The Planning and Compensation Act 1991 states that:

*'Section 106 (1) - Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation.....restricting the development or use of the land in any specified way: requiring specified operations or activities to be carried out in, on, over or under the land; requiring the land to be used in a specified way; or requiring a sum or sums to be paid to the authority on a specified date or dates or periodically.'*

**9.2.5** Circular 1/97 provides further guidance on planning obligations, stating that:

*'The tests to apply for their use are that they should be necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other'*

respects.'

**9.2.6** Section 106 of the Planning and Compensation Act 1991 is an enabling clause which allows two or more parties to enter into an agreement. Circular 1/97 provides further guidance which among other things specifies that planning obligations should be directly related to the proposed development. It was put to us that the need for affordable housing is a wider community need which does not arise as a result of the proposed development. In these circumstances it is difficult to see that provision on site is the only possible route to meeting that need. It is not part of the brief for this research to comment on planning law, but it is evident from planning practice that there is considerable uncertainty about how the law should be applied.

### 9.3 Findings and Issues

**9.3.1** Almost all of the local authorities interviewed (and those who returned SPG) were clear that on-site provision was their preferred option. However they recognised that there were exceptional circumstances in which this might not be the most appropriate form of provision.

*'In X the shortage of suitable alternative sites is likely to restrict alternative provision elsewhere. In light of this the Council will only in exceptional circumstances consider financial contributions and in reaching this decision will assess the likelihood of alternative arrangements actually resulting in the provision of affordable housing. Where both sides agree to off-site provision of affordable housing, the developer's contribution may take the form of either a financial contribution per unit or the provision of the units on an alternative identified site . . . . alternative site should generally be in the vicinity of the development site.'*

**9.3.2** We found a number of instances where local authorities were in receipt of commuted sums, as an alternative to on site affordable housing provision. The questionnaire returns suggested that 31% of local authorities who have an affordable housing policy in their adopted plan have received a financial contribution towards affordable housing provision. Local authorities in the West Midlands and South West were most likely to have done so and local authorities in the North West least likely to have done so.

**9.3.3** Acceptance of commuted sums appears to be for one of three main reasons:

- the overall economics of the scheme mean that provision of affordable housing on site is not financially viable;
- the local authority would prefer a financial contribution because a shortage of SHG means that resources from a number of sites must be pooled in order to make development feasible on one site; and
- the site is capable of providing affordable housing but the location is not the most appropriate one for meeting housing need.

**9.3.4** Arguably only the third of these reasons provides the exceptional circumstances in which a financial contribution should be permitted. The case studies identified a number of examples

of such exceptional circumstances:

### **Case Study 1**

An edge of town centre site of more than 25 flatted units intended predominantly for single person occupancy and overlooking a busy road. The Housing Needs Survey shows that the main need is for family housing for social rent. (Service charges can also be an issue here).

The developer brings forward a site below the threshold in a residential area which is developed purely for social housing for families.

Eg: Former Odeon cinema 46 flatted small units. The developer offered affordable housing on site (overlooking an inner distributor road, opening into a service road) or a windfall surrogate -13 units on a printworks in a residential area. The printworks was sold to a specified housing association at a considerable discount on open market residential value, having been previously bought at risk by the developer.

### **Case Study 2**

A developer is providing a large newbuild sale housing scheme in the middle of an area of predominantly social housing for rent. The site is large enough to qualify for providing affordable housing and it would be financially viable to do so. However to provide additional social housing in the immediate vicinity would not achieve tenure diversification. On the other hand there is a need for additional social housing elsewhere in the Borough.

**9.3.5** This has proved particularly likely to be an issue in the London boroughs, but we also encountered it in some Midland towns.

**9.3.6** The developer pays the local authority a financial contribution which is used to finance new development or the purchase of street properties for rent by housing associations.

*'There is an overwhelming need within the Borough for new affordable housing units. However there are particular sites where, due to the existing high level of affordable housing provision in the locality, or in order to maximise a site's development potential through maximising land values, the Council would prefer to see the provision of market housing. On such sites the Council, where the provision of affordable housing would otherwise have been appropriate, will encourage maximum provision of private housing development and discourage the provision of further social rented housing. In these areas, the Council will normally seek a contribution towards affordable housing in the form of 'cash in lieu'. This is in accordance with paragraph 22 of Circular 6/98 Planning and Affordable Housing.'* London Borough UDP

**9.3.7** Some northern local authorities wrestling with the problem of difficult to let social housing estates have taken a different approach. In a situation where there is a significant element of greenfield development which is considered necessary to revitalise the local economy - and

the local authority has a significant stock of difficult to let properties (which would become even more marginal if newbuild social housing was provided) - agreement has been reached that the developer should pay a financial contribution which is used to refurbish the local authority stock., (this situation applied to various local authorities in the North West and potentially to several in the Midlands).

### **Case Study 3**

A large greenfield development on the edge of town is big enough to justify the provision of affordable housing and financially able to do so, but the local authority is concerned about moving low income households into the area before it has become established and there are some local facilities.

The developer pays a financial contribution to the local authority which is used to buy street properties or assist the provision of newbuild affordable housing elsewhere in the district.

Alternatively affordable housing provision on site is phased to take place later in the development process when the area has become more established and local facilities are available.

#### *Accounting For Commuted Sums*

**9.3.8** We found little evidence of good practice in monitoring or accounting for use of commuted sums. Ironically there was more likely to be a clear trail if the local authority had sought a commuted sum to finance a pet project of its own.

**9.3.9** Better practice was furthest developed in London. One London authority holds commuted sums received in a ring-fenced account. Payment in lieu agreements are reported quarterly to Planning and Housing Committee. The report sets out all historic payment in lieu agreements and a list of affordable housing schemes to which payment in lieu funds have contributed.

**9.3.10** Another London authority also ring-fences commuted sums with an identified officer responsible for ensuring that the money is spent on affordable housing (currently for key workers) in the form of top up grant for RSLs. A third covenants that any sum paid by a developer towards the provision of affordable housing and not used for that purpose within a minimum of three years will be repaid to the developer.

**9.3.11** It does not appear to us that there is any reason why commuted sums cannot be spent promptly and to an agreed strategy. Indeed they should only be sought if there is a clear and immediate benefit in terms of widening affordable housing supply for those in housing need in the borough.

#### *Use Of Commuted Sums Outside The Local Authority Boundary*

**9.3.12** Some local authorities raised the issue of usage of commuted sums outside their own area. This issue generally arises either because of a shortage of land within the borough or because a price differential with an adjoining (or at least accessible) borough means that affordable housing can be provided more cost effectively elsewhere.

**9.3.13** Two possible scenarios came to our attention:

- **Stretching scarce financial resources:** Some inner urban authorities use SHG to finance purchase of units in the surrounding suburban area. It may be possible to buy 40 units in one borough for the price of 20 in another. 30 units go to the funding borough, 10 to the borough in which the units are purchased. This is primarily a London and South East issue, but is now also starting to surface in the South West.
- **Major new developments which straddle local authority boundaries:** some local authorities are jointly seeking affordable housing on major greenfield sites which straddle borough boundaries and could be argued to serve a sub-regional housing market. Because of development phasing in any particular year development may be taking place in only one local authority's area. However other authorities in the area may be seeking to acquire affordable units on site.

**9.3.14** At the moment local authorities can use their own resources to fund such purchases but not financial contributions received in lieu of onsite provision of affordable housing (paragraph 22 of Circular 6/98). This has caused problems for a number of local authorities and one solution which was brought to our attention in the West Midlands was the use of a form of words referring to 'local need, however this was derived' as a mechanism to enable shire boroughs in the region to accommodate metropolitan overspill.

**9.4 Towards Better Practice**

**9.4.1** Local authorities should provide clear guidance in SPG or development briefs as to the circumstances in which commuted sums will be acceptable. These will be exceptional and should normally be related to housing need in the area, not to the economics of affordable housing provision. The possible role of commuted sums and procedures for handling them are set out in the flowchart overleaf.

**9.4.2** The cost of affordable housing provision through a commuted sum should not normally be different to the cost of affordable housing provision on site.

**9.4.3** Where commuted sums are used they should be properly accounted for in a separate account. At the time when the Section 106 agreement is entered into there should be a clear undertaking from the local authority as to how and within what time scale any commuted sum will be used, with appropriate sanctions if this undertaking is not honoured (as currently specified in paragraph 23ii of Circular 6/98).

<b>Table 9.1: Exceptional Use of Commuted Sums</b>		
SPG should provide guidance on exceptional use of commuted sums as follows:		
A) Preferred Option On-site Provision	On-Site Provision	Cost up  • With SHG

		<ul style="list-style-type: none"> <li>Without SHG</li> </ul>
<p>B) Exceptional circumstances in which a commuted sum will be accepted (e.g. site is capable of providing affordable housing but site is not suitable for potential client group)</p>	<p>Commuted sum sought equivalent to cost to developer of provision on-site</p>	
<p>Local authority identifies:</p> <ul style="list-style-type: none"> <li>Use to which commuted sum will be put (this could include the option of the developer purchasing another site in the area and providing an appropriate amount of affordable housing on the alternative site)</li> <li>Timescale within which commuted sum will be spent</li> <li>Mechanism for accounting for use of Commuted sum</li> </ul>		
<p>Developer and authority reach agreement  Developer provides commuted sum (or affordable housing on another site) within specified timescale  Local authority spends commuted sum on the provision of affordable housing.</p>	<p>Confirmed through Section 106 agreement</p> <ul style="list-style-type: none"> <li>Reported back to Planning Committee</li> <li>Recorded in annual Housing Strategy Statement</li> </ul>	

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## **Chapter 10 - Working with Registered Social Landlords**

### **10.1 Introduction**

**10.1.1** Effective partnership between housing association, house builder and local authority is key to the delivery of affordable housing. However the process of negotiation between the parties, unless handled carefully, can produce more than its fair share of tensions.

#### *Choosing RSL Partners*

**10.1.2** There is an apparent lack of synergy between the interests of the local authority and the house builder. The local authority wants a RSL which will deliver a competent management service and an affordable product. The house builder wants a housing association that will pay the highest price for the housing and impose the least onerous set of development standards. The problem is compounded if the local authority and the house builder are unable to agree about the type of affordable housing which is required on a site.

**10.1.3** This can produce a situation where both parties separately approach local housing associations asking them to tender for a different product mix for the same site. We were advised of an instance where a RSL had bid for Housing Corporation funding for a particular mix of dwellings without the backing of the house builder who was still in debate with the local authority on the issue.

**10.1.4** An effective enabling authority will have sorted out these problems with the house builder before either side starts talking to a RSL. At the very least there should be agreement about the range of options that is being explored even if it is accepted that the eventual form of affordable housing provision will depend on the availability of subsidy and the cost of development.

**10.1.5** The question then arises as to how to choose a RSL partner. Here again the local authority and the house builder are subject to conflicting pressures. Both will have historic relationships with particular housing associations with whom they find it easy to work. Such relationships may well have been formalised either through joint commissioning on the part of the local authority or through a partnering agreement on the part of the house builder. The Housing Corporation encourages both these types of arrangement: the former as part of the Best Value agenda, the latter under the Egan initiative for better procurement in construction. However, where these formal partnership arrangements have led the local authority and the house builder to enter into agreement with different housing associations the position may become very complicated.

### **10.2 National Policy Position**

#### *Choice Of Partners*

**10.2.1** Planning policy guidance on this subject is clear: Paragraph 17 of Circular 6/98 states that:

*'Local planning authorities should not prescribe which partners developers should use to deliver the affordable housing, but rather should aim to ensure that arrangements will deliver the objectives of the policy as set out in the local plan.'*

**10.2.2** However local authorities who are providing Social Housing Grant or recommending to the Housing Corporation that it should fund a particular scheme are likely to have strong views on which RSL the money should go to. How does this tension work in practice?

### *Specifying The Product*

**10.2.3** Paragraph 15 of 6/98 provides guidance on the scope for local authorities to specify the type of product which should be provided:

*'Decisions about house types should ... be a matter for discussion and agreement. Local planning authorities and house builders should be reasonably flexible in deciding the detailed mix of affordable house types most appropriate to a particular site.'*

**10.2.4** This should be read in conjunction with paragraphs 9-11 of PPG 3 which deal with creating mixed communities and influencing the type and size of housing:

*'Local planning authorities should encourage the development of mixed and balanced communities ... They should formulate plans which secure an appropriate mix of dwelling size, type and affordability in both new developments and conversions to meet the changing composition of households in their area in the light of the likely assessed need.'*

**10.2.5** We found no evidence to suggest that local authorities are currently using plan policy to specify house types or mix for affordable housing. However we were quoted instances where development briefs were being used for this purpose. It may be that as PPG3 starts to feed through into Local Plan policies that they will seek to be more prescriptive about all types of housing development and not just affordable housing.

## **10.3 Findings and Issues**

**10.3.1** Some individual local authorities were sanguine about their ability to persuade house builders to accept nominated RSLs. Typically partner associations included mainstream regional providers. House builders were offered a choice of which of these associations they will work with. So far the majority of house builders had been able to select a development partner from among these associations. One local authority was aware, however, that a house builder had already entered into a partnering arrangement with a RSL which was on the local authority's approved list. This had not been a problem, but it could have been had the RSL not been on the list.

**10.3.2** Some local authorities take an even more rigid approach, seeking to tie up sites and individual RSLs. One authority has assigned a number of associations (between three and five) to each site allocated within the development plan. These are selected from the Council's approved list and all RSLs are assessed through annual performance monitoring. House builders have a choice of the assigned RSLs and will not receive Local Authority SHG unless

they proceed with one of them.

**10.3.3** Another authority specifies which RSL will work on which site, effectively offering the house builder no choice of housing association partner. The main reason for this was cited as the need to eliminate land value competition. This authority recognised that house builders are forming separate partnerships with housing associations and would be prepared to accommodate a house builder's chosen housing association partner provided that they matched the local authority's choice on rents, development standards, mix and housing management.

**10.3.4** A more flexible approach was taken by a local authority in the South East which advised us that if a house builder approaches the authority with a RSL partner with whom the authority has not had a previous working relationship the authority will interview the RSL and go through a series of checks (financial probity, rent levels, local management capability etc). As long as these checks yield satisfactory results the authority is happy to proceed.

**10.3.5** It appears to be possible to resolve a potentially difficult situation where both the house builder and the local authority take a flexible approach. However where either side is inflexible stalemate is likely to arise. Depending on the wording of the Section 106 Agreement this may result in development which does not meet the local authority's requirements or no development at all. We were told of instances where developers had used unregistered housing associations to provide 70% shared ownership at a price slightly higher than local second-hand properties. This met a need but the local authority felt that demand was limited and 'the middle market who cannot afford to buy' was not the group of people whom the policy had been intended to assist.

#### *When To Involve The RSL*

**10.3.6** Some RSLs expressed concern that they were not involved early enough in the process and that they were not involved in negotiations leading up to Section 106 agreements, nor were they always asked to be signatories. Conversely house builders complained if a single RSL was offered as a potential signatory for a Section 106 agreement. Again flexibility in choice of RSL would seem to be appropriate, but given this criterion we believe that RSLs should normally be party to Section 106 agreements. This issue is explored in more detail in Chapter Seven on Section 106 agreements.

### **10.4 Towards Better Practice**

**10.4.1** It seems practical to us that the local authority should suggest a range of possible RSL partners (four or five). In most situations this will lead to an amicable solution, where it does not authorities need to be reasonably flexible, subject to appropriate checks on RSL performance.

**10.4.2** Ironically the move to formalise partnership agreements with housing associations by both local authorities and house builders may well increase the likelihood of conflict on RSL selection. Whilst the situation may in practice, in the majority of cases, be amicably resolved because major regional RSLs are likely to figure on both local authority joint commissioning lists and in house builder partnerships, this situation cannot be guaranteed. We therefore recommend that DETR and the Housing Corporation considers this matter further and provide

good practice guidance on the subject.

**10.4.3** Where an RSL partner has been agreed, that RSL should normally be party to the Section 106 agreement.

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## Chapter 11 - Monitoring of Delivery

### 11.1 Introduction

**11.1.1** This chapter is concerned with the ways in which the delivery of affordable housing is monitored by local authorities. Our findings are that there is little evidence that affordable housing is monitored in an effective way. However, with good practice guidance issued in October last year, many authorities expressed their desire to improve the quality of their monitoring. We would endorse this view.

### 11.2 National Policy Position

**11.2.1** The key provisions for the monitoring of affordable housing supply are contained in PPG3: Housing. The following extracts provide the framework.

**11.2.2** It is key objective of housing policy as a whole to plan, monitor and manage, and that:

*'housing requirements and the ways in which they are to be met, should be kept under regular review. The planned level of housing provision and its distribution should be based on a clear set of policy objectives, linked to measurable indicators of change. These indicators should be monitored and reported in the RPB (Regional Planning Bodies) annual monitoring report.'*([see endnote 26](#))

**11.2.3** More specifically in relation to the monitoring of affordable housing:

*'local planning authorities should monitor the operation and outputs of local plan affordable housing policies, and housing delivered on rural exception sites. They should work closely with their housing departments to establish arrangements for keeping accurate and up-to-date information on the amount of such housing, or (where this is exceptionally the case) contributions towards the provision of such housing, secured by the authority.'*([see endnote 27](#))

**11.2.4** In so far as contributions in lieu of affordable housing are concerned, PPG3 stresses the need for:

*'local planning authorities [to] ...ensure that full information about [such] planning obligations .....is placed on the statutory planning register.'*([see endnote 28](#))

**11.2.5** Good practice guidance on monitoring is contained in 'Monitoring Provision of Housing through the Planning System: Towards Better Practice' (DETR, October 2000). The guidance sets out the nature of information that should be collected and the sources of the data. Key variables in the monitoring process are '*dwelling completions, permissions, delivery rates, percentage of dwellings on brownfield sites, numbers of dwellings on windfall sites, numbers of affordable homes.*' Authorities should also look towards methods for monitoring the '*variety of types and mix of housing*' (in particular to assist the process of feeding into the Housing Flows Reconciliation), '*density of new development*' and '*car parking provision.*'

**11.2.6** The guidance emphasises the need for authorities to balance their resources efficiently and to provide information which can optimise the policy framework. It points out that housing and planning information is often not produced in a consistent way:

*'PPG12 requires local authorities to publish the results of plan monitoring on a regular basis. At present, however, the reporting of results of any monitoring of housing activity which is undertaken by planning authorities is not universal - some authorities provide internal reports, some publish their reports, some do not comment on information in any routine way.'*([see endnote 29](#))

**11.2.7** An effective monitoring system will seek to overcome these inconsistencies and balance resources more efficiently.

### **11.3 Findings and Issues**

#### *What Is Done Now?*

**11.3.1** An investigation of monitoring, its extent and best practice, is an important issue in relation to the delivery of affordable housing through the planning system. Our postal questionnaire did not deal with the monitoring process, although within the interview rounds, we did discuss the issues relating to monitoring with the local authorities.

**11.3.2** Generally, we conclude that local authorities are not well engaged with the issues relating to monitoring, and especially as they relate to affordable housing. The detachment of monitoring from the housing provision policy framework is a problem which is recognised in the guidance. There is little, however, in the findings of this report to suggest that the picture is any different, with a few notable exceptions.

**11.3.3** The monitoring process is mainly characterised by the assembly of development control information relating to planning permissions and completions. Local authority in-house data (Building Control, for example), as well as Housing Corporation data is used to support the process. Urban land capacity studies also feed into the monitoring process, but by no means all authorities have robust systems for doing this, often because data and information about the existing stock (for example, purchase of existing satisfactory property) is not readily available. Local plan monitoring statements play a role in some authorities.

**11.3.4** Although some authorities told us that databases were being generated to provide a system for monitoring, these would not be up and running until early 2001. Most authorities are some way away from achieving an efficient system for gathering information about off-site contributions as set out as policy guidance.

#### *Problems In Monitoring*

**11.3.5** Several problems were readily identified by authorities once the subject of monitoring was introduced. Typical responses were:

*'The data and information on new build is more readily and easily monitored than data relating to the housing stock'*

*'Where sites are large and the development process is extended, monitoring becomes more complex'*

*'Planning knows about completions [and], Housing knows about approvals'*

*'We don't have time/the cost and resource implications are too great'*

*'Effective monitoring is more feasible where regular housing need surveys are carried out'*

**11.3.6** Within the scope of our research of this topic area, it would be inappropriate to fully conclude on how genuine we think these worries might be. For example, where there is an outdated housing needs survey, it become easy to appreciate the difficulties involved in ongoing monitoring of supply. Similarly, where sites are large and complex, and feedback on permissions and completions sporadic, the process of information collation and synthesis become much more challenging than say, where all sites are small, self-contained and quickly turned over.

**11.3.7** Nevertheless, we feel that those authorities who conclude that, for example, the problem of monitoring is largely a problem relating to a lack of resources should consider the way in which their existing resources are allocated. A perceived problem of shortage may, in practice, be a problem relating to misallocation.

## **11.4 Towards Better Practice**

**11.4.1** Authorities recognise the need to improve. They recognise that they should:

*'Work in a more corporate way'*

*'Find the funding for effective monitoring'*

*'Bring together development, urban capacity and housing stock data sources'*

**11.4.2** Indeed, there are good examples of monitoring amongst very different types of authority, although the better practice cases are far and few between.

**11.4.3** One authority in London carries out, what we believe to be, very effective monitoring; from planning permissions to completions, including a focus on affordable housing with a separation of information relating to on-site and off-site provision. This authority provides quarterly reports to committee on schemes where commuted sums have been achieved, and the sites benefiting from the commuted sums.

**11.4.4** Another, less well resourced (rural) authority in the South West, implements what may well be considered effective monitoring across many aspects of good practice. Others will benefit from following these examples and familiarising themselves with the good practice guidance on monitoring which accompanies PPG3.

## **Endnotes**

**26** PPG3, Paragraph 8

**27** PPG3, Paragraph 19

**28** PPG3, Paragraph 20

**29** Monitoring Provision of Housing through the Planning System, p14 (DETR, October 2000)

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## Chapter 12 - Corporate and Collaborative Working

### 12.1 Introduction

**12.1.1** Housing and planning departments do not, on the basis of our interview evidence, always work closely together and co-ordinate their approaches. Agencies external to the local authority are not always involved effectively in policy and implementation. There is, furthermore, limited evidence of corporate working within authorities.

**12.1.2** Effective corporate working within authorities and improved collaborative arrangements between authorities and external agencies can improve the effectiveness of affordable housing delivery.

### 12.2 National Policy Position

**12.2.1** Circular 6/98 (paragraph 8) states that: *'In preparing their local plans, authorities should involve housing and planning committees, to ensure that planning policies for affordable housing are compatible with their housing strategies, and with their objectives for land-use planning and urban economic development. They should also take account of the views of those likely to be involved in the delivery of housing. As well as local authority housing departments acting as "enablers", planners should involve those who represent main land owners, developers, registered social landlords and the Housing Corporation.'*

### 12.3 Findings and Issues

**12.3.1** The need for housing and planning departments within authorities to work more closely together is clear. We have an example of an authority where planning and housing department representatives met for the first time in our interview and many others where there are well-established and productive corporate approaches to delivery.

**12.3.2** The absence of corporate working and inefficiencies in corporate working lead to unclear policy definition and implementation within authorities. This also leads to an external perception of confusion in dealing with the authority. Effective corporate working helps to ensure that policies are consistently applied, that house builders know where they stand and that delays are avoided.

**12.3.3** In the most effective authorities, housing and planning departments have been working together for several years and have established joint mechanisms for dealing with policy development. In such circumstances formal consultations between the two departments take place as policy is rolled forward. We have an example of an authority that is preparing a set of formal protocols as part of a Best Practice exercise.

**12.3.4** In this authority there is a joint planning and housing committee that helps to promote valuable liaison at member level. Development control officers systematically send the applications list to the housing department so that any missed affordable housing potential might be recognised.

**12.3.5** Early joint internal meetings on Section 106 agreements, involving development control, housing and lawyers, are seen to be valuable. A co-ordinated 'one stop shop' approach by planning and housing departments can promote an environment in which local developers and landowners understand and work within the framework of the council's policy objectives. The appointment of a Housing Enabling Officer can provide a link between housing and planning departments and between local plans and housing strategy. We have found this to be particularly effective in promoting affordable housing in rural areas. (see Chapter 13).

**12.3.6** A Strategic Housing Group (SHG) within an authority, which brings together housing, planning, finance and legal officers and involves private developers, can be effective in improving delivery. An operational group spawned from the SHG may consider progress on specific sites and provide joint reports to elected members. Councillors who have common membership of housing and planning committees can have a better understanding of the connected issues.

**12.3.7** The need for authorities to share experiences with each other and develop more consistent approaches is apparent from our interviews results. There are several examples of productive collaborative arrangements between councils. These can include the establishment of a common list of preferred RSLs with the objective of raising the quality of development.

#### **Case Study 1: Telford and Wrekin Council**

The Wrekin Housing Charter Group, which was established in 1990, meets five or six times a year. It co-ordinates policy and acts as a lobby group. Representatives of local authority housing, planning and finance departments attend its meetings, as do representatives of the Regional Government Office, The Housing Corporation and all RSLs that are active locally.

**12.3.8** We have an example of a rural community council that has played an enabling role in bringing local authorities together, providing a forum for discussion on housing and planning issues. This can help to work against the isolation of those involved on affordable housing delivery especially the lawyers, given that there is sometimes only one lawyer in an authority dealing with affordable housing.

#### **Case Study 2: East Hampshire District Council**

In East Hampshire a Strategic Housing Group within the authority brings together housing, planning, finance and legal officers as well as private developers. It meets about once every six weeks. It has spawned an operational group that considers progress on specific sites and provides reports for the elected members. The council has a system of area planning and housing committees and all councillors sit on one of these. Some members are common to planning and housing committees. Hampshire districts and unitary authorities have joint strategic housing and planning groups at which officers meet on a regular basis.

**12.3.9** A Joint Advisory Committee (JAC) on housing covering several district authorities can help to improve collective understanding and implementation of affordable housing policies.

**12.3.10** Membership, in one example, includes officers and elected members from three district authorities, parish councillors, and Housing Corporation personnel. Meetings every six months on affordable housing review developments and future programmes, provide an

exchange of information and a forum for discussing moves towards common protocols.

### **Case Study 3: Dartmoor National Park**

Dartmoor National Park Authority (DNPA) established a Joint Advisory Committee (JAC) as reaction to the housing boom of the late 1980s and the emerging problems of local needs housing. This is a unique arrangement that other national parks are considering replicating. The membership covers three district councils, the Community Council of Devon (representing parishes) and The Housing Corporation. Both officers and elected members are involved. The JAC meets every six months to discuss issues relating to affordable housing. Meetings cover topics such as government policies, progress with development plans, reviews of recent developments and future programmes, and the background to housing needs surveys.

The advantages of the JAC are seen as increasing mutual understanding, ensuring the perspective of RSLs is considered (through HC representation), the involvement of councillors and the consequent opportunities for them to hear arguments at first hand. The JAC provides an important means for councils to influence DNPA thinking (e.g. as DNPA rolls forward its local plan).

### **Case Study 4: West Cornwall District Council**

In Carrick, in West Cornwall, the housing and planning departments have been working together for several years and have standard mechanisms for dealing with policy development. Formal consultations take place between the two as the local plan is rolled forward. The authority will be preparing a set of formal protocols next year as part of a Best Value exercise. A joint planning and housing committee promotes liaison at member level. Development control officers automatically send the applications list through to the housing department so housing can spot affordable housing potential if the planning officer misses it.

The three councils of Penwith, Carrick and Kerrier have formed the West Cornwall Partnership. They have a common list of preferred RSLs. They want to raise the standard of RSL development and this is the prime motivation behind the joint approach. The three authorities have agreed a three-year rolling programme of development. This is to be linked to RSL capacity with a sharing of work between RSLs. The councils believe that this will reduce abortive work for RSLs.

### **Case Study 5: West and East Sussex**

Planning and Housing Forums have been established in West and East Sussex. Each forum seeks to develop best practice. There is representation from parish councils, NHF and district councils. Regular meetings of officers from each district allow them to share concerns, discuss issues and to overcome the perceived problem of isolation in

terms of policy development and implementation of affordable housing policies.

The West Sussex Forum, which has been in existence of over three years, meets twice a year. It considers issues such as SPG, commuted payments, and Section 106 agreements. The work of the West Sussex Forum led to the production of a good practice publication - Affordable Housing for Rural Communities. This is targeted at parish councils and provides guidance on site identification, rural needs surveys and processes for rural exception sites in general. The East Sussex Forum has three sub groups that examine housing, planning and legal issues. It is preparing best practice notes to develop a common approach to the delivery of affordable housing. It is looking at developing a model Section 106 agreement, consistent implementation procedures, and a common approach to rural exception sites. Although developers and house builders are not directly involved in either forum, one district council has actively involved a developer and two RSLs in its Best Value performance report. This was found to be a very valuable exercise. Officers were able to gain a better understanding of developers' perspectives and the financial constraints that house builders work under. The 'Best Value Group' continues to meet because of the valuable inter-action that the performance review highlighted.

**12.3.7** The development of joint model Section 106 agreements can arise from collaborative processes. County-wide housing and planning officers' groups can be effective in promoting mutual understanding and consistent approaches to policy implementation. Inter-authority co-ordinating groups that bring together representatives of housing, planning and finance and include Housing Corporation and housing association representation can co-ordinate and clarify policy over a wide area.

**12.3.8** Local authorities that improve the delivery of affordable housing through more effective corporate and collaborative working will be acting in ways that are wholly compatible with the Government's agenda for modernising local government. It is clear that outward looking authorities that work in partnership with others are likely to improve housing delivery and promote the objectives in Modern Local Government In Touch with the People (DETR, 1998). The improved quality of service that this will provide for developers, RSLs and the other actors in affordable housing development processes will, furthermore, be consistent with the aims of Modernising Government (Cm 4310, 1999).

## **12.4 Towards Better Practice**

**12.4.1** Local authorities should establish effective corporate relationships for the delivery of affordable housing. Housing and planning departments should have a clear and coordinated approach to policy formation and delivery.

**12.4.2** Local authorities should consider the establishment of a strategic housing and planning group within the authority. Such a group would bring together housing, planning, finance and legal officers. The close involvement of local authority members in the working of such groups should be considered. An operational group that considers progress on specific sites and

provides reports to elected members should be considered.

**12.4.3** Local authorities should consider the appointment of a housing enabling officer to provide a link between housing and planning departments and between local plans and housing strategy. Such an enabling officer might report to a strategic housing and planning group within the authority.

**12.4.4** Local authorities should consider the establishment of inter-authority co-ordinating groups that bring together representatives of housing, planning, and finance from several authorities and include Housing Corporation and housing association representation. Such groups should help to co-ordinate and clarify policies over a wide geographical area.

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## Chapter 13 - Rural Issues

### 13.1 Introduction

**13.1.1** Our definition of rural areas has been given in the introduction to this report. Within rural areas it is important to recognise that there are two opportunities to provide affordable housing: firstly on sites allocated in a local plan particularly those rural areas characterised by small settlements where the threshold for the delivery of affordable housing can be set by the local authority; and secondly through the rural exception policy. However, despite this, many rural areas acknowledge particular difficulties in securing an adequate supply of affordable housing. As we will see below, *Circular 6/98* allows considerable flexibility for housing need to be met in rural areas whilst PPG3 does not place restrictions on land used for affordable housing as exception sites. Indeed land that is normally subject to restraint, such as Green Belt, may in some situations be appropriate to provide a small element of affordable housing. However, it is vital that any housing provided in this way should be available to meet housing need in perpetuity.

**13.1.2** This section of the report considers rural housing provided on allocated sites within local plans and rural exceptions housing. It draws upon earlier sections of this report and generic issues that affect both rural and urban issues.

### 13.2 National Policy Position

**13.2.1** Paragraphs 69 to 71 of PPG3 are concerned with housing in rural areas. It is recognised that provision for affordable housing should be met to ensure a mixed and balanced community. There is also reference to 'exception policy' to provide affordable housing on sites which would not normally be considered for residential development, but where local needs cannot otherwise be met by means of provision in the plan. Annex B to the PPG is devoted to providing for rural exception housing.

**13.2.2** The delivery of affordable housing is given prominence in the PPG. It highlights the importance of identifying the community's need for affordable housing through housing needs assessments and 'other information' and stresses the need for a local authority to define what it means by affordable, to take into account rural as well as urban needs and to identify suitable sites for the provision of affordable housing.

**13.2.3** It considers exception housing in rural areas and emphasises the need for such housing to be provided in perpetuity.

**13.2.4** *Circular 6/98* sets out appropriate thresholds for provision of affordable housing. Outside London, sites of at least one hectare or 25 dwellings or more may be appropriate for the delivery of affordable housing, but where acute housing pressures exist it may be appropriate to seek to apply lower thresholds down to those normally appropriate in Inner London. This is particularly appropriate to developments in small market towns.

**13.2.5** In settlements of 3,000 or less population, smaller sites may accommodate affordable housing. The only caveat to this is that an appropriate threshold should be introduced into the

local plan by the planning authority that recognises local housing need and the contribution that particular sites might make to it. The recent Rural White Paper has taken this forward and suggested that:

*'Local authorities should negotiate an appropriate element of affordable housing and there is no reason why, in small villages if there is evidence of need and subject to financial viability, they should not seek to match every new market house with an affordable home.'*([see endnote 30](#))

### 13.3 Findings and Issues

#### Findings

#### Rural Authorities

**13.3.1** Our findings in the analysis of the questionnaire results revealed interesting variations between the regions and between similar rural authorities in their provision of affordable housing. Of the four regions that included rural areas: the North West, West Midlands, the South West and South East, we have found a considerable mix in approaches to affordable housing provision. It is also possible to differentiate between different types of rural character. Our survey includes rural areas that still maintain a strong agricultural focus, but also include rural areas, which do not. We suspect that these areas have a much more mixed local economy that produces a range of housing need within a local authority area.

**13.3.2** For the purposes of this analysis we have identified local authorities as 'rural' if they have stated in the questionnaire that 30% or more of their population is within settlements of 3,000 or less. There are 22 local authorities that fall within this category within our survey. Of these, almost three-quarters are within the South East or South West. The most rural have over 60% of their population in settlements of 3,000 or less (See Table 13.1 below):

<b>Table 13.1: 'Rural' Local Authorities within the Sample Frame</b>		
<b>Region</b>	<b>Rural LAs</b>	<b>Most Rural LAs</b>
South East	6	1
South West	6	3
West Midlands	4	1
North West	1	0
<b>Total</b>	<b>17</b>	<b>5</b>

#### Delivery

**13.3.3** Within the rural authorities, 11 (of 22; 50%) considered their local housing market to be pressured and 11 (of 22; 50%) considered the market to be variable needing affordable housing in particular areas. Within the most rural authorities four out of five ( 80%) identified their areas as one of variable prices. As will be considered below this is just one of the disparities recorded in the case studies between the location of housing need and the opportunity to satisfy it.

**13.3.4** Whilst all but one of the rural authorities identified above have an exception policy a

further 16 authorities within the four regions also provide exception housing through a local plan policy. Thus within our survey a total of 38 authorities have an exception policy within their existing or emerging local plan. Only two local authorities had adopted Supplementary Planning Guidance related to the provision of affordable housing in rural areas. In the case of an authority in the West Midlands this is concerned with eligibility of applicants to rural affordable housing and sets out the cascade principle that will be applied.

**13.3.5** Looking at the number of affordable dwellings that have either received planning permission between 1998 and 2000 or have been completed within this time period on exception sites in the rural authorities, 198 dwellings have been given planning permission and an additional 161 completed within rural authorities. Of the non-rural authorities, 136 dwellings have been given planning consent and in addition 67 have been completed. Table 13.2 and 13.3 provide the regional breakdown. The proportion of housing delivered upon exception sites. Within the rural authorities this represents 15% of the affordable dwellings provided during this two-year period.

<b>Table 13.2: Affordable Dwellings on Exception Sites in Rural Authorities</b>		
<b>Rural Local Authorities</b>	<b>With PP</b>	<b>Constructed</b>
South East	79	52
South West	85	81
West Midlands	22	16
North West	12	12
<b>Total:</b>	<b>198</b>	<b>161</b>

<b>Table 13.3: Affordable Dwellings on Exception Sites in Non-Rural Authorities</b>		
<b>Non-Rural Local Authorities</b>	<b>With PP</b>	<b>Constructed</b>
South East	18	45
South West	8	22
West Midlands	111	0
North West	0	0
<b>Total:</b>	<b>136</b>	<b>67</b>

**13.3.6** Taking the rural and non-rural authorities together a pattern emerges that presents almost 70% of affordable housing provided on rural exception sites within the four regions was in the South East or South West. However, although important in meeting housing need, exception policy represents only a small proportion of affordable housing provision even in rural authorities.

### *Issues*

**13.3.7** The questionnaire revealed a number of common issues relating to all authorities that provide affordable housing within rural areas. The questionnaire results relate to both the provision of affordable housing on exception sites and affordable housing delivered as part of a wider housing scheme. The findings of the Focus Groups are used to enlarge upon the questionnaire results where appropriate. Examples of better practice are provided taken from

the case study analysis.

### *Housing Need*

**13.3.8** As was considered in Chapter Three above, assessing housing need in rural areas is generally accomplished through a variety of mechanisms including the general housing needs assessment, supplemented by referral to the common housing register and often a parish or village survey.

**13.3.9** One authority in the South East organised a survey of all its rural communities in order to establish a clear and comparable level of need across the local authority's rural area. Most however commission a bespoke survey undertaken by the parish council or RSL to identify local housing need.

**13.3.10** However, in both cases there is an issue of timing involved since surveys reveal immediate needs for accommodation, such as someone taking up employment in the area, but delivery necessarily takes much longer. In an attempt to improve the lapse of time between the identification of need and the delivery of affordable housing three local authorities have employed a rural field worker to seek out and meet needs in rural areas. The continuity of this approach should ensure that local needs are met more quickly than might otherwise be the case.

### *Land Availability*

**13.3.11** 14 local authorities stated that there was a problem in finding suitable sites for affordable housing schemes in rural areas. This is both for sites to be allocated in local plans and for exception housing. In the case of the former we found that authorities had problems identifying sites in small settlements that would trigger their threshold for the inclusion of affordable housing. In the case of the latter, the failure to identify a suitable site could effectively stymie the delivery of exception schemes.

**13.3.12** In the case of exception sites there was generally a presumption against development in areas designated as Green Belt or Areas of Outstanding Natural Beauty (AONB). Four authorities identified Green Belt as a factor in not being able to identify suitable affordable housing sites and one authority was concerned that development might compromise an AONB. However, one authority in the South West has developed 8 affordable units on an exception site within the Green Belt.

#### **Case Study 1**

An authority in the South West has 60% of its area designated as Green Belt or as an AONB. It is therefore highly constrained and hopes to maximise the potential of available housing sites. It has also found that its greatest need for affordable housing is within the villages rather than the market towns. The Council has therefore adopted a threshold of 8 dwellings or 0.28 of a hectare for the provision of affordable housing in communities of less than 3,000. The Council has also recently appointed a Rural Enabling Officer to identify potential sites and bring them forward for development.

## Costs

**13.3.13** Three authorities identified high costs as a reason for lower delivery of affordable housing within rural areas. Schemes are generally smaller and do not benefit from the economies of scale associated with larger developments. In order for schemes to be in character with local communities, a more 'bespoke' product has to be implemented. This often provides a greater contrast to the developer's standard product than might be the case in a more urban environment. Whilst agreement on the design and materials may take longer in rural schemes, the identification and acquisition of a development site may also be protracted. Where they have been produced Village Design Statements are informative in establishing an acceptable design and use of materials in a housing scheme.

**13.3.14** As we have already discussed we found that in a number of local authorities an enabling officer is employed to ensure that affordable housing schemes are brought forward from identification to completion. The use of such a resource to help speed the process and so reduce lead-in times and costs can be particularly attractive for local authorities with a large rural area (see Chapter 12).

**13.3.15** The issues of cost and land availability are particularly taxing to the Housing Corporation in trying to formulate a three-year programme for the delivery of affordable housing in rural areas. Higher development costs can be a problem in securing the development of allocated or windfall sites within rural settlements, whilst exception sites which do not have the certainty conveyed to allocated sites in local plans can take much longer to implement or indeed may fail altogether.

**13.3.16** The Focus Groups considered the financial implications of affordable housing thresholds in rural areas in relation to communities of less than 3,000. There was much discussion to attempt to establish the minimum economic size of a rural site. A number of thresholds were put forward ranging from six to 12 or 15 dwellings. A major factor in this equation is the discount afforded to the cost of the land. However, it was clear that no consensus existed of a minimum size for either exception or main stream housing provision in rural areas.

**13.3.17** Alternative pressures for funding for other forms of development also confound the potentially higher cost of providing affordable housing in rural areas.

### Case Study 2

In an authority within the West Midlands for example, there is a potential conflict for the local authority between supporting the related social aims of providing additional affordable housing and contributing to other rural regeneration measures, such as introducing greater diversification into the local economy. Often these needs fall in quite distinct and separate parts of the district with high unemployment focused in parts of the market town areas with a demand for affordable housing being represented in the higher cost villages.

**13.3.18** Particular problems also face the National Parks. Not only is there a strong presumption against development (with no residential sites allocated within local plans) but in order to preserve the high quality of the environment, material costs lead to higher build costs. Administratively there is also a split of function here between the Parks Authority as Planning

Authority and the District Council as Housing Authority. This was considered earlier in the Chapter 12 concerned with corporate working.

### **Case Study 3**

In the case of a local authority on the fringe of a National Park it is considered that affordable housing provision can best be met by discounting the price of housing for sale in the belief that other forms of affordable housing provision are uneconomic. The Park Authority seeks an average discount of some 20% below market rates for the sale of units that is also fixed in a planning agreement in perpetuity.

#### *Affordable Housing In Perpetuity*

**13.3.19** We found that where need exists the objective to provide affordable housing in rural areas for future generations was of concern to all authorities. In general local authorities have developed schemes with RSLs where they feel there is greater certainty in providing affordable housing in the long term. Tenure of schemes identified through the questionnaire is entirely for social rented properties or shared ownership schemes with a limitation on staircasing.

**13.3.20** The mortgagee in possession clause would seem to be less of a hindrance that might be thought with authorities insisting that it should not be included within any Section 106 agreement and gaining the RSL's approval to this. However, we found that six authorities identified this as a cause of difficulty in the provision of rural exception schemes. One authority in the South West suggested that restrictions in the Section 106 Agreement on shared ownership properties caused problems for the eventual owner to gain a mortgage on the property.

#### *Thresholds*

**13.3.21** Many authorities did not seem clear about the opportunity to set their own threshold level according to housing need for the delivery of affordable housing on allocated or windfall sites in rural areas as outlined in *Circular 6/98*. Three local authorities stated that the site threshold for affordable housing was difficult to achieve on rural housing schemes. One authority in the South East, with over 50% of its population in settlements of 3,000 or less, stated that:

*'There are very few housing sites coming forward under normal planning policies (that) are large enough under Circular 6/98 thresholds. Policies steer most housing to the urban areas therefore there is no real mechanism for new build subsidised housing in rural areas.'*

**13.3.22** Another authority in the West Midlands with 70% of its population living in settlements of 3,000 or less stated that:

*'The thresholds set out in Circular 6/98 are too restrictive/inappropriate in this deeply rural district. In this area the difficulty is the lack of large sites through which we can negotiate a percentage of affordable housing. Most schemes are very small in scale (one to five dwellings) which has up to now not contributed any.'*

**13.3.23** It was very surprising to find that very little use seems to be made of the opportunity for

local authorities to set their own thresholds in settlements of 3,000 population or less and this seems to be related to a misunderstanding of *Circular 6/98* rather than to consider lower thresholds but to reject them on financial grounds. One South West authority stated:

*'Rural exceptions are preferred rather than permitting local needs provision on 'in-fill' sites within villages owing to such sites being below thresholds.'*

**13.3.24** Another authority in the South West argued that:

*'The District is very constrained by national planning policies e.g. Green Belt. Land values are high and development opportunities limited and in great demand. RSLs cannot compete. Large sites are low in number. Consequently there is not sufficient scope to meet affordable housing needs through development. In this area the solution has to be funding to enable the purchase of existing dwellings.'*

**13.3.25** Other local authorities have resisted this approach as it is seen as competing with other sectors of affordable housing provision. Increasing demand for low-cost accommodation can prejudice others in need of lower cost dwellings to purchase.

#### **Case Study 4**

A rural authority in the West Midlands has adopted an innovative approach to the issue of thresholds within the district. Conscious of the sparsely populated rural area and high affordable housing need, the emerging local plan is pursuing the idea that all sites and conversions should include an element of affordable housing. Such a policy both reflects the advice of Circular 6/98 and pursues the concept of affordable housing provision suggested recently in the Rural White Paper.

#### **Case Study 5**

Telford and Wrekin have adopted a threshold of 15 dwellings or 0.5 of a hectare for the consideration of all sites for affordable housing. The justification for this policy rests with the large amount of land (about 80% of developable land) that rests with English Partnerships and has planning consent under the New Towns Act that does not make provision for affordable housing. In order for Telford and Wrekin to meet its housing need it must maximise the widest possible opportunity to consider sites for affordable housing. It has therefore adopted the lower threshold for the provision of affordable housing as given in Circular 6/98.

**13.3.26** We found it to be surprising that more use was not made of the provision in Circular 6/98 to set appropriate thresholds to meet housing need in settlements of 3,000 or less populations. Authorities should make use of this provision, particularly where housing need is confined to specific rural areas, rather than being endemic to a wider area including market towns.

*Sustainability*

**13.3.27** The emphasis given to the development of brownfield sites and the need to make use of urban capacity is seen by a number of authorities as a hindrance to the development of affordable housing in rural areas. Two authorities questioned how sustainable were affordable rural housing schemes. An authority in the North West stated:

*'The ability to deliver rural affordable housing (on exception sites) is further complicated by assessment of sustainability against need and the land coming forward to develop.'*

**13.3.28** The Rural White Paper recognises that rural areas can provide an appropriate setting for sustainable development. The White Paper underlines a new commitment to market towns.

*'We will strengthen market towns which can provide improved services for surrounding rural areas and we will help regenerate the most deprived. We will ensure that both central and local Government bodies explicitly recognise the role of market towns in their strategies.'* ([see endnote 31](#))

**13.3.29** An authority in the South West is currently developing rural housing policy that acknowledges that local needs (including sustaining village communities) takes precedence on rural sites over priority housing needs if necessary.

**13.3.30** One authority in the West Midlands was particularly concerned about the provision of single dwellings for local needs provided on exception sites. The authority identified a number of issues that this policy challenged. These included 'probity and the sustainability of dispersed development.'

**13.3.31** The issue of sustainability also taxed the Focus Groups. Whilst there was recognition of the different measures of rural (of populations of 3,000 or 10,000) there was an interesting debate about whether rural affordable homes should be provided in small settlements or larger market towns. Whilst the issue of social inclusiveness was used to underpin the appropriateness of providing village housing, it was nevertheless understood that whilst housing could be provided in either location there was often a political bias towards the market town where such housing could be considered to be less intrusive. Certainly from our initial findings in the questionnaire, rural exception sites, despite problems of size thresholds, account for the minority of provision even in rural authorities.

### *Management*

**13.3.32** A number of authorities described the cascade principle by which new dwellings are allocated to tenants and shared ownership purchasers. This allowed those with the strongest link to the location of the new housing to be housed first. Whilst for the majority of new schemes in rural areas this does not present problems, it can become an issue as the last one or two units are occupied, or when the property is occupied for the second time.

**13.3.33** One authority in the South East commented that:

*'Affordable housing in villages becomes unpopular with local residents whenever it becomes vacant and is filled by people identified in the waiting list from the urban area. The results have been unsatisfactory for the new tenants and village*

*communities alike.'*

**13.3.34** Bedford Borough Council seeks to ensure the sensitive management of housing on rural exception sites within its local plan policy. Policy H30 calls for the management of exception housing by the Parish Council, Housing Association, Village Trust or other similar organisation. The policy continues that:

*'Future management will be controlled using planning agreements, to ensure that the housing continues to be made available to local people in the future. Additional controls will be introduced to prevent 'staircasing' to 100% ownership, thereby ensuring that the dwelling remains 'affordable' and to ensure that the dwellings are not extended to form much larger properties.'*

**13.3.35** Circular 6/98 makes provision for affordable housing to be reserved for those in housing need in perpetuity. Paragraph 16 states in relation to rural exception sites that:

*'Local planning authorities should ensure that there are adequate occupancy controls to reserve the housing in question for local needs in perpetuity...'*

### *Joint Approaches*

**13.3.36** A number of local authorities share resources or work collaboratively in order to secure best practice. This has been considered above in Chapter 12.

#### **Case Study 6**

In Shropshire the 'Shropshire Housing Officers' Group' meets to share and develop better practice. The group has considered the issue of how to overcome the potential mismatch between developing in sustainable settlements and providing for affordable housing need. They have also looked at the reasons for the sometimes slow delivery in the provision of affordable housing, particularly on exception sites. In the case of North Shropshire District Council, this has led to the development of draft Supplementary Planning Guidance that makes it quite explicit how residents will become eligible for affordable housing schemes on exception sites. The SPG gives specific criteria for the housing provider whilst giving comfort to the local community that the scheme will indeed be meeting local housing need.

#### **Case Study 7**

In Sussex 'A Guide to Good Practice' has been produced to help rural communities understand the commitment to delivering affordable housing. The guide was prepared by the Sussex Rural Community Council and was funded by the Housing Corporation. The guide provides a step by step approach to the provision of affordable housing from the consideration of housing need to the occupation of the housing. Sussex has one of the highest incidences of the provision of affordable housing on exception sites in the country. In addition a field worker is employed to maintain the momentum needed to identify and provide

affordable housing to meet local needs.

**13.3.37** In Cornwall the West Cornwall Partnership exists to co-ordinate the approach to affordable housing of three councils: Penwith, Carrick and Kerrier.

### **Case Study 8**

In the case of Herefordshire District Council a RSL Forum Development Group meets six times a year involving representatives from the Local Authority Housing and Planning Departments as well as the RSLs active within the County. The aim of the group is to ensure that the District is fulfilling its housing enabling role and working corporately with the relevant RSLs. The District has also produced draft SPG concerned with the definition of affordable housing in the District.

## **13.4 Towards Better Practice**

### **Housing Need And Thresholds**

**13.4.1** Our survey results have shown little use of housing needs surveys to inform the reduction of site thresholds for the provision of affordable housing in rural areas. A possible explanation for this is the widely held belief that general housing needs surveys are not accurate enough to identify local needs in rural areas. We have considered above the mechanism for housing needs surveys to identify affordable housing need that is then translated into specific site allocations. The problem in rural areas is that this specific information is often not available during local plan preparation with the result that few rural sites are identified. Rural housing is then allocated to major development sites in the market towns or left to exception policy supported by a designated housing needs survey in the most rural areas.

**13.4.2** We would urge local authorities to undertake additional surveys of need in rural areas during the preparation of local plans. This could take place on a district wide basis or be targeted at those settlements that may have demonstrated a propensity for need in the general housing needs survey. The results of such surveys could then be used as a proper consideration of the threshold for allocations to deliver affordable housing in those settlements of 3,000 or more, or in particular smaller settlements where it is at the discretion of the local authority to establish a suitable threshold.

#### *Land Availability*

**13.4.3** There are two major constraints inhibiting land availability for affordable housing in rural areas. The first concerns the reluctance of local authorities to reduce thresholds in rural areas as advocated in *Circular 6/98*. By considering adopting a lower standard in settlements over 3,000 and providing a local standard in communities of less than 3,000, authorities would have a stronger policy position to deliver affordable housing in rural areas. One of the main constraints to adopting this approach is possibly the inadequacy of housing needs assessments to identify need at a disaggregated level. Authorities should attempt wherever possible to establish local need to inform such policies.

**13.4.4** In the case of exception housing there appears to be a reluctance to make use of land which is subject to restraint policies. Green Belt allocations or AONB have been used as

reasons not to promote housing schemes. However, PPG3 is quite clear that land subject to these designations can be considered for affordable housing if these locations are more sustainable than alternatives.

### *Cost*

**13.4.5** We recognise that housing development within rural areas needs to be treated sensitively and that this can have implications for the design of the dwellings and the materials used in their construction. The effect of this can be to increase development costs. However, in terms of expediency we can see great advantages in local authorities employing an enabling officer to undertake responsibility for the promotion of rural housing schemes - particularly those involving exception sites.

### *Affordable Housing In Perpetuity*

**13.4.6** We were encouraged that the delivery of affordable housing in rural areas did not appear to be constrained by the need by RSLs to satisfy the eventuality of a mortgagee in possession. A number of authorities told us that in some cases this had caused delay, but the eventual outcome was agreement that this condition was inappropriate for exception housing. PPG3 gives considerable flexibility in the identification of sites for exception housing and it would be entirely inappropriate for such housing to ever be used as market housing.

**13.4.7** Whilst *Circular 6/98* considers that planning conditions and planning obligations may be used to ensure that either initially or in perpetuity only people falling within particular categories of need should occupy affordable housing; as we have seen above it is quite specific that on rural exception sites need should be met in perpetuity.

**13.4.8** It has been argued that by presenting RSLs with restrictions upon raising private finance, the limitation on including the mortgagee in possession clause effectively precludes smaller locally based RSLs from developing on exception sites. We believe that as exception policy housing provides a minority of affordable housing even in the most rural areas, that it is not unreasonable for RSLs to accept this limitation on the financing of this type of housing.

### *Sustainability*

**13.4.9** A number of authorities raised concerns about how rural housing on both allocated and windfall sites and that provided under exception policies met overall sustainability criteria. We have some sympathy with this view, particularly where authorities have a number of conflicting claims upon their resources, such as the need to undertake measures to promote rural regeneration initiatives.

**13.4.10** However, we suggest that local authorities should give careful consideration to the balance between sustainability and meeting housing need in rural areas. We refer back to the need for housing needs assessments to be robust and for local authorities to carefully consider the balance of their local plan policies to meet affordable housing need and other sustainable development objectives. As one authority reminded us social factors are an essential consideration of sustainable development.

## *Management*

**13.4.11** We share the concern of many local authorities that affordable housing in rural areas should meet local needs in perpetuity. We have already considered this from the perspective of RSLs raising private finance, but a number of authorities have raised the issue of the need for rural housing to meet the needs of local people. We therefore welcome the use of nomination policies that favour local connections over the allocation of dwellings in rural areas from the general housing waiting list.

**13.4.12** We recognise something of a paradox here in promoting a more closely focused location selection procedure for those people in housing need in rural areas compared with those living in urban areas. However, we recognise the point made in the Rural White Paper that:

*'Distance between people and between settlements means that difficulty with transport is often a dominant consideration for those who live in the country.'*

**13.4.13** With the careful identification of people in housing needs and recognition of their location requirements we feel that this is a legitimate criteria in permitting access to rural affordable housing.

## *Joint Approaches*

**13.4.14** We were most encouraged by the number of rural authorities who worked collectively with their neighbours in the pursuit of affordable housing policy. Many rural authorities expressed their concerns to us about not having standard legal agreements and having limited opportunity to compare the merits of different housing schemes. Much expressed concern that if they were seen to be 'unreasonable' in their demands affordable housing would be located in neighbouring areas and therefore not ameliorate local needs.

**13.4.15** Collaborative working allows rural opportunities the opportunity of sharing experiences and gives them the certainty of a joint approach to development which will ensure a level playing field in the delivery of affordable housing in rural areas.

## **Endnotes**

**30** Our Countryside: The Future p50, paragraph. 5.4.5 (DETR, 2000)

**31** *ibid* p75

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## Chapter 14 - Towards Better Practice

### 14.1 Introduction

**14.1.1** This section brings together the various recommendations of better practice in the delivery of affordable housing through the planning policy. The section provides a background from which to develop better practice in this sphere.

### 14.2 Definition of Affordable Housing

**14.2.1** Our researches have found that there are mixed messages in the definition of affordable housing. Whilst there is acceptance of both PPG3 and *Circular 6/98* that affordable housing includes both low cost market housing and social housing provided with a form of housing subsidy, we have nevertheless found that housing needs assessments generally identify a strong local requirement for socially (rented) properties and it is this need that is often translated into policy. Affordable housing is therefore more often than not associated in the minds of providers with social rented accommodation.

**14.2.2** The trend to define affordable housing as socially rented accommodation is most pronounced in the south of the country where the housing market is at its strongest. In the north west a weaker market and plentiful supply of (often difficult to let) rented accommodation allows greater flexibility in the definition of affordable housing allowing use of 'shared ownership' and 'discount market for sale'.

**14.2.3** However, within major development schemes throughout the country there is a recognition of the importance of affordable housing in fulfilling broader regeneration objectives. We quoted the example of Imperial Wharf in West London where affordable housing included housing association rented, shared ownership, discount market for sale (including key worker accommodation) and special needs accommodation.

**14.2.4** Our conclusions were that local authorities should ensure that their consideration of affordable housing included the wider definition given to it in PPG3 and *Circular 6/98*. There should be recognition of this definition in housing needs assessments and account should be taken of the full spectrum of available affordable housing in its provision.

**14.2.5** There also needs to be a clear link between the definition of affordable housing, the findings of the housing needs assessment and the resultant emerging planning policy. The definition of local housing costs and income levels is often lost and we believe that it is essential that there is clear benchmarking in the definition of affordability within local authority areas. As it is we are at a loss to know whether different demands for types of affordable housing across the country do indeed represent a logical translation of affordable housing need within a particular area or whether authorities are using a rule of thumb when it comes to defining affordable housing needs loosely based upon the findings of a housing needs assessment.

### 14.3 Housing Needs Assessment

**14.3.1** DETR has published guidance on the preparation of housing needs surveys. Local authorities should familiarise themselves with this guidance and ensure that their consultants follow it.

**14.3.2** Both urban and rural authorities have indicated their desire for a methodology which provides information on differential housing markets within the local authority area. The DETR guidance recommends techniques to achieve this and we also found individual examples of good practice. Local authorities for whom this is an issue should make sure that they commission research which can provide reliable information on differential housing markets within the local authority area.

**14.3.3** Sometimes different authorities share a common housing market. There is a strong case for collaboration in assessing housing need across local authority boundaries. However, we rarely found that authorities acted together in this way.

**14.3.4** Given the reservations expressed by house builders about the overall quality of housing needs surveys it is surprising that there has been no robust critique from the industry of the methodologies employed. The house building industry should either clarify and publicise its objections to the survey methodologies commonly used or it accepts their results as an accurate reflection of local housing need.

**14.3.5** Government Offices should satisfy themselves that housing needs surveys meet the criteria set out in the DETR guidance. It is not enough simply to insist that local authorities have undertaken a housing needs survey. The Government Office should actually find its results credible.

**14.3.6** A housing needs survey underpins any affordable housing target, but there are also other factors which should be taken into account. Local authorities should avoid acceptance of a going rate and should prepare affordable housing policies which reflect the needs of their areas taking into account overall housing supply, access to public funding and the need to create balanced communities.

**14.3.7** Regular monitoring of key variables is essential. They should be assessed in the light of the council's overall housing policy and should take into account other factors such as the impact of regeneration and the economics of development.

## **14.4 Significance of Affordable Housing Provision**

**14.4.1** We believe that the position of affordable housing in the overall supply of housing within a local authority area needs to be clearly defined in policy terms and be accompanied by systems and processes that will ensure the ease of its delivery. We therefore recommend that:

- The importance that a local authority attaches to the delivery of affordable housing should be firmly established in development plans.
- Local authorities should take steps to ensure that members have a clear and consistent understanding of affordable housing policies.
- Effective corporate working relationships to deliver affordable housing should be

established within local authorities.

- Effective corporate working relationships to deliver affordable housing should be established between authorities.

## 14.5 Thresholds and Targets

**14.5.1** The general direction of local plan policy is almost exclusively one way - towards more prescriptive and lower thresholds. This is felt most in pressured market areas which generally means in the south of the country.

**14.5.2** In terms of producing better practice guidance, the first step will need to be an unambiguous re-statement of the policy framework set by DETR. This is particularly relevant in relation to the use of thresholds.

**14.5.3** As in the Rural White Paper authorities with settlements below 3,000 should be reminded of the flexibility they are afforded in setting thresholds. Rural authorities need to reflect on the balance of affordable housing provided in their larger market towns and their smaller villages and identify thresholds which relate to robust local needs estimates, to the local economics of development and to other policies on rural exception sites.

**14.5.4** The justification for lower thresholds in smaller settlements should follow the same process as for urban areas (which we set out later in this section), albeit that in rural areas there is much greater flexibility.

**14.5.5** For more urban authorities the importance of 15 dwellings as the lower threshold is critical. Aspirations to go below this are growing in the south and any false expectations in this respect could slow down the plan preparation process. In justifying even this step the authorities also need to be reminded that high levels of need on its own is not a justification and that they will also need to demonstrate lack of supply.

**14.5.6** More generally there is a need for authorities to bring together the findings from their needs assessments and urban capacity studies and a better understanding of the economics of affordable housing development if they are to maximise the delivery of affordable housing. This applies equally to the development of their policy framework (including the development of thresholds) and the way they negotiate individual sites. Such advice will be consistent with that contained in the Good Practice Guide for Local Housing Needs Assessments.

**14.5.7** This need has also recently been set out in broad principle in the Regional Planning Guidance for the South East (RPG9 - March 2001). Policy H4 of the Guidance provides a very clear resume of the factors which planning authorities need to consider in their plan making (and site negotiations) and could usefully be included in better practice guidance.

**14.5.8** Chapter Five provides a step by step approach to the definition of thresholds and targets based upon the recently published Regional Planning Guidance for the South East. The approach suggests that in reaching thresholds local authorities need to consider:

- Results from housing needs surveys.
- Results of urban capacity studies.
- Assessment of the potential contribution of 100% affordable housing sites.
- Establish percentage for the delivery of affordable housing on sites within the local authority area.
- Apply economic testing to the likely site outcomes.
- Ensure market viability of affordable housing sites.
- Assess potential supply against defined housing needs.

## 14.6 Supplementary Planning Guidance

**14.6.1** The provision of detailed guidance on the operation of planning policy on affordable housing is helpful to all concerned. It should be subject to public consultation and this should normally be done through the preparation of SPG, although some local authorities have used other mechanisms. The Housing Strategy Statement may play a part in reporting progress and updating economic information.

**14.6.2** SPG should be firmly based on policies contained in the plan. It should not be used to amend plan policy.

**14.6.3** Matters suitable for inclusion in SPG might be:

- financial implications of affordable housing provision;
- usage of commuted sums (if appropriate);
- mechanisms for securing long-term affordability;
- design considerations;
- selection of RSL partners;
- negotiation of exception sites; and
- the administration of the affordable housing policy (who to contact, what information is required, how the local authority handles affordable housing matters).

**14.6.4** Large complex sites may require development briefs: these should not go beyond the affordable housing requirements set out in the adopted Local Plan / UDP and any more general SPG.

**14.6.5** Economic matters related to affordable housing should be updated through the annual

Housing Strategy Statement which should be subject to the same consultation process as SPG and the Local Plan. Housebuilders, landowners and RSLs should recognise the need to respond to the housing strategy statement in the same way as they would to a Local Plan or SPG.

## **14.7 Section 106 Agreements**

**14.7.1** We re-emphasise the importance of clear guidance on local authority expectations, thorough pre-application discussions and good corporate working within authorities as general points pertinent to good practice in relation to Section 106 agreements.

**14.7.2** It then seems unnecessary to be prescriptive about the process for negotiating Section 106 agreements in terms of which departments should take specific responsibilities. However, the roles played by the planning, housing and legal departments must be closely coordinated. Better practice means a strong corporate approach which ensures that the authority provides a consistent and clear picture to the developer.

**14.7.3** Good corporate working can rely on open channels of informal contact but regular planned liaison between departments, to check formally on progress with negotiations, can also serve a useful purpose. It would be wrong to be prescriptive about this but formal and regular liaison does prevent possible problems slipping through and is to be encouraged.

**14.7.4** In terms of the relationships between what is presented to the planning committee for approval and what is left to the Section 106 negotiations to resolve we propose that the following should all be agreed at committee stage:

- a number of affordable housing (or off site provision or acceptance of and amount of payment in lieu);
- location of on site provision;
- phasing of affordable housing development in relation to market housing (or at least when affordable housing or land for affordable housing is transferred to the RSL or other provider); and
- criteria for access to the affordable housing - certainly in the case of rural exceptions schemes but possibly also for mainstream schemes.

**14.7.5** We also recommend that at this stage the principles of the Section 106 agreement should be agreed between the authority and the developer and be presented to the committee. This should include the tenure of the affordable housing to be provided, any arrangements for low cost sale and shared ownership and, wherever possible and relevant, the name of the organisation which will own and manage the affordable housing. Where there is a named organisation, their agreement to these principles should also be sought at committee stage.

**14.7.6** Some authorities may choose to go further and have Section 106 agreements ready to sign. We do not consider this essential.

**14.7.7** Model Section 106 agreements are to be recommended. The better practice example quoted earlier provides useful illustrative material on this.

**14.7.8** Model agreements should be publicly available and used, at least as a starting point. Good practice guidance should set out what a model agreement can cover, reminding authorities of the specific advice in *Circular 6/98* of what should NOT be covered by them. The financial arrangements between a developer/land owner and RSL are one such matter.

**14.7.9** It is then up to each authority to design their own agreement in detail. This should be done in consultation with local developers and RSLs.

**14.7.10** Where there is a known RSL (or other provider) we recommend that they are party to the agreement and involved in the negotiations to conclude the Section 106 agreement.

**14.7.11** We have outlined the process which we are recommending and attempted to be clear about what aspects of the negotiating process should be dealt with at different stages. We assume that everything proposed is lawful but further DETR guidance on this may be necessary.

## **14.8 Economics of Development**

**14.8.1** We believe that the general lack of science in the local authorities involvement and understanding of the provision of affordable housing can be of serious detriment to its provision.

**14.8.2** Local authorities should therefore improve their understanding of the economics of their local housing and land markets. Those local authorities who had established an effective dialogue with landowners and developers were more confident in their dealings with the private sector and were more likely to adopt a realistic and flexible approach to subsidy requirements and hence to achieve a successful outcome to negotiations. They were confident they knew their market and were not being stitched up. The establishment of a landowners and developers forum, possibly complemented by a private landlord forum is one mechanism for doing this. Such fora could also serve as sounding boards for the development of SPG and the Housing Strategy.

**14.8.3** It may be appropriate to seek to develop a model at local level of the cost of a range of different types of affordable housing provision. This could be undertaken in conjunction with the Housing Needs Survey or as a separate exercise.

**14.8.4** Local authorities should automatically cost their affordable housing requirement for both on site and off site provision and should include this information in either SPG or a development brief. The developer contribution required should normally be the same in both cases, unless the local authority wants to introduce a financial incentive to a particular course of action. Any decision about the use of commuted sums should then be based on housing need, not on financial impact on the development.

**14.8.5** Availability of SHG is an issue. Where SHG for social housing for rent is not available local authorities should work with local RSLs, estate agents and developers to assess demand for low cost home ownership and/or key worker rented housing before automatically seeking

SHG equivalent funding from developers.

## 14.9 Use of Commuted Sums

**14.9.1** Local authorities should provide clear guidance in SPG or development briefs as to the circumstances in which commuted sums will be acceptable. These will be exceptional and should normally be related to housing need in the area, not to the economics of affordable housing provision. The possible role of commuted sums and procedures for handling them are set out in Chapter Nine.

**14.9.2** The cost of affordable housing provision through a commuted sum should not normally be different to the cost of affordable housing provision on site.

**14.9.3** Where commuted sums are used they should be properly accounted for in a separate account. At the time when the Section 106 agreement is entered into there should be a clear undertaking from the local authority as to how and within what time scale any commuted sum will be used, with appropriate sanctions if this undertaking is not honoured (as currently specified in paragraph 23 (ii) of *Circular 6/98*).

## 14.10 Working with Registered Social landlords

**14.10.1** It seems practical to us that the local authority should suggest a range of possible RSL partners (four or five) with whom developers should work in the delivery of affordable housing. In most situations this will lead to an amicable solution, where it does not authorities need to be reasonably flexible, subject to appropriate checks on RSL performance.

**14.10.2** Ironically the move to formalise partnership agreements with housing associations by both local authorities and house builders, which is currently being spearheaded by the Housing Corporation, may well increase the likelihood of conflict on RSL selection. Whilst the situation may in practice, in the majority of cases, be amicably resolved because major regional RSLs are likely to figure on both local authority joint commissioning lists and in house builder partnerships, this situation cannot be guaranteed. We therefore recommend that DETR and the Housing Corporation considers this matter further and provide good practice guidance on the subject.

**14.10.3** Where an RSL partner has been agreed, that RSL should normally be party to the Section 106 agreement.

## 14.11 Monitoring of Delivery

**14.11.1** Authorities recognise the need to improve. They recognise that they should:

*'Work in a more corporate way'*

*'Find the funding for effective monitoring'*

*'Bring together development, urban capacity and housing stock data sources'*

**14.11.2** Indeed, there are good examples of monitoring amongst very different types of authority, although the better practice cases are far and few between.

**14.11.3** One authority in London carries out, what we believe to be, very effective monitoring; from planning permissions to completions, including a focus on affordable housing with a separation of information relating to on-site and off-site provision. This authority provides quarterly reports to committee on schemes where commuted sums have been achieved, and the sites benefiting from the commuted sums.

**14.11.4** Another, less well resourced (rural) authority in the South West, implements what may well be considered effective monitoring across many aspects of good practice.

## **14.12 Corporate and Collaborative Working**

**14.12.1** Local authorities should establish effective corporate relationships for the delivery of affordable housing. Housing and planning departments should have a clear and coordinated approach to policy formation and delivery.

**14.12.2** Local authorities should consider the establishment of a strategic housing and planning group within the authority. Such a group would bring together housing, planning, finance and legal officers. The close involvement of local authority members in the working of such groups should be considered. An operational group that considers progress on specific sites and provides reports to elected members should be considered.

**14.12.3** Local authorities should consider the appointment of a housing enabling officer to provide a link between housing and planning departments and between local plans and housing strategy. Such an enabling officer might report to a strategic housing and planning group within the authority.

**14.12.4** Local authorities should consider the establishment of inter-authority co-ordinating groups that bring together representatives of housing, planning, and finance from several authorities and include Housing Corporation and housing association representation. Such groups should help to co-ordinate and clarify policies over a wide geographical area.

## **14.13 Rural Issues**

**14.13.1** Our researches have shown little use of housing needs surveys to inform the reduction of site thresholds for the provision of affordable housing in rural areas. A possible explanation for this is the widely held belief that general housing needs surveys are not accurate enough to identify local needs in rural areas. We have considered above the mechanism for housing needs surveys to identify affordable housing need that is then translated into specific site allocations. The problem in rural areas is that this specific information is often not available during local plan preparation with the result that few rural sites are identified. Rural housing is then allocated to major development sites in the market towns or left to exception policy supported by a designated housing needs survey in the most rural areas.

**14.13.2** We would urge local authorities to undertake additional surveys of need in rural areas during the preparation of local plans. This could take place on a district wide basis or be

targeted at those settlements that may have demonstrated a propensity for need in the general housing needs survey. The results of such surveys could then be used as a proper consideration of the threshold for allocations to deliver affordable housing in those settlements of 3,000 or more, or in particular smaller settlements where it is at the discretion of the local authority to establish a suitable threshold for the delivery of affordable housing.

**14.13.3** There are two major constraints inhibiting land availability for affordable housing in rural areas. The first concerns the reluctance of local authorities to reduce thresholds in rural areas as advocated in *Circular 6/98*. By adopting a lower standard in settlements over 3,000 and providing a local standard in communities of less than 3,000, authorities would have a stronger policy position to deliver affordable housing in rural areas. One of the main constraints to adopting this approach is possibly the inadequacy of housing needs assessments to identify need at a disaggregated level. Authorities should attempt wherever possible to establish local need to inform such policies.

**14.13.4** In the case of exception housing there appears to be a reluctance to make use of land which is subject to restraint policies. Green Belt allocations or AONB have been used as reasons not to promote housing schemes. However, PPG3 is quite clear that land subject to these designations can be considered for affordable housing if these locations are more sustainable than alternatives.

**14.13.5** We recognise that housing development within rural areas needs to be treated sensitively and that this can have implications for the design of the dwellings and the materials used in their construction. The effect of this can be to increase development costs. However, in terms of expediency we can see great advantages in local authorities employing an enabling officer to undertake responsibility for the promotion of rural housing schemes - particularly those involving exception sites. One of the criticisms cited to us was the officer time involved in the preparation of exception schemes. Whilst not a direct cost to be borne by the development the opportunity cost involved acts as a deterrent to the provision of affordable housing.

**14.13.6** We were encouraged that the delivery of affordable housing in rural areas did not appear to be constrained by the need by RSLs to satisfy the eventuality of a mortgagee in possession. A number of authorities told us that in some cases this had caused delay, but the eventual outcome was for RSLs to accept that this condition was inappropriate for exception housing. PPG3 gives considerable flexibility in the identification of sites for exception housing and it would be entirely inappropriate for such housing to ever meet the need for market housing.

**14.13.7** Whilst *Circular 6/98* considers that planning conditions and planning obligations may be used to ensure that wither initially or in perpetuity only people falling within particular categories of need should occupy affordable housing; as we have seen above it is quite specific that on rural exception sites need should be met in perpetuity.

**14.13.8** It has been argued that by presenting RSLs with restrictions upon raising private finance, the limitation on including the mortgagee in possession clause effectively precludes smaller locally based RSLs from developing on exception sites. We believe that as exception policy housing provides a minority of affordable housing even in the most rural areas, that it is not unreasonable for RSLs to accept this limitation on the financing of this type of housing.

**14.13.9** A number of authorities raised concerns about how rural housing on both allocated and windfall sites and that provided under exception policies met overall sustainability criteria. We have some sympathy with this view, particularly where authorities have a number of conflicting claims upon their resources, such as the need to undertake measures to promote rural regeneration initiatives.

**14.13.10** However, we suggest that local authorities should give careful consideration to the balance between sustainability and meeting housing need in rural areas. We refer back to the need for housing needs assessments to be robust and for local authorities to carefully consider the balance of their local plan policies to meet affordable housing need and other sustainable development objectives. As one authority reminded us social factors are an essential consideration of sustainable development.

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*'Distance between people and between settlements means that difficulty with transport is often a dominant consideration for those who live in the country.'*

**14.13.13** The careful identification of people in housing needs and recognition of their location needs we feel that this is a legitimate criteria in permitting access to rural affordable housing.

**14.13.14** We were most encouraged by the number of rural authorities who worked collectively with their neighbours in the pursuit of affordable housing policy. Many rural authorities expressed their concerns to us about not having standard legal agreements and having limited opportunity to compare the merits of different housing schemes. Much expressed concern that if they were seen to be unreasonable in their demands affordable housing would be located in neighbouring areas and therefore not ameliorate local needs.

**14.13.15** Collaborative working allows rural opportunities the opportunity of sharing experiences and gives them the certainty of a joint approach to development which will ensure a level playing field in the delivery of affordable housing in rural areas.

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## Appendix A - Analysis of Postal Survey Responses

### Summary

#### 1. Methodology

The postal survey was carried out during July and August 2000. A total of 250 questionnaires were sent out to local authorities in London, the South East, South West, West Midlands and North West. 74 responses were received, a response rate of 30%. This response rate is considered to be satisfactory for a survey of this kind, but the results have to be treated with some caution and considered in conjunction with other elements of the research.

	<b>Total No of responses</b>
London	9
South East	27
South West	14
West Midlands	14
North West	10
<b>Total</b>	<b>74</b>

#### 2. Overview

- 64 out of 74 local authorities have an adopted local plan or UDP. In 55 cases (86%) there is a policy which specifically refers to the provision of affordable housing.
- 41 (75%) of authorities with an affordable housing policy have concluded Section 106 agreements which deal with affordable housing.
- 21 authorities (38%) have received a financial contribution or commuted sum towards affordable housing provision.
- Local authorities in the North West are less likely to have an affordable housing policy in their local plan and those who have one are more likely to have secured lowcost market housing through their affordable housing policy than are authorities in other regions surveyed.
- Local authorities were asked how many units of affordable housing they have secured via the planning system. 36 local authorities answered this question. These 36 authorities have secured 6374 affordable dwellings via the planning system between 1998 and 2000 (an average of 177 dwellings per authority). 5,000 of these dwellings (79%) are for social rent and 450 (7%) are shared ownership homes. The remaining 924 (14%) are unspecified tenure.

#### 3. Housing Markets

Local authorities were asked to define the nature of their local housing market. Of the 69 local authorities who replied just over half (57%) indicated that they operated in a pressured housing

market, with the majority of such responses coming from London, the South East and South West.

By contrast the majority of local authorities in the North West and West Midlands (68%) reported that they were in a variable housing market with a strong need for affordable housing in some places but not everywhere.

Only five respondents suggested that the need for affordable housing was limited or could be met through turnover of the existing stock. Three of the five came from the West Midlands and North West and there may be some correlation with known issues of oversupply of social housing in parts of those regions.

	<b>Londo n</b>	<b>South East</b>	<b>South West</b>	<b>West Midlands</b>	<b>North West</b>	<b>Tota l</b>
Pressured housing market	6	20	20	3	0	39
Variable housing market - strong need for affordable housing in places	2	7	3	10	3	25
House prices modest - need for affordable housing limited		1		1	0	2
House prices relatively low and housing need met through turnover of existing stock		0	0	0	2	2
Relatively low need for affordable housing	1	0	0	0	0	1
<b>Total</b>	<b>9</b>	<b>28</b>	<b>13</b>	<b>14</b>	<b>5</b>	<b>69</b>

A similar pattern could be discerned in response to a question about change in the overall pattern of need for affordable housing in the area over the past five years. 83% of respondents in London said that need has grown significantly. In the South West 73% of respondents reported a significant increase in need and 71% in the South East. However in the West Midlands the figure was 64% and in the North West it fell to 11%. 44% of local authorities in the North West reported that need for affordable housing has diminished in the past five years.

#### 4. Housing Needs Surveys

90% of local authorities surveyed have completed a housing needs survey. 63% of local authorities are either currently updating their housing needs assessment or planning to do so. Only two local authorities (one in the North West and one in the South West) have not undertaken a housing needs survey and have no plans to do so.

	<b>Londo n</b>	<b>South East</b>	<b>South West</b>	<b>West Midlands</b>	<b>North West</b>	<b>Tota l</b>
Carried out HNS	7	27	11	13	9	67
Currently updating HNS	5	6	8	6	1	26
Planning to update HNS In next 2 years	0	14	4	3	0	21

<b>Total</b>	<b>9</b>	<b>28</b>	<b>13</b>	<b>14</b>	<b>5</b>	<b>69</b>
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## 5. Development Plan Policies Relating to Affordable Housing

64 out of 74 local authorities (86%) have an adopted local plan or UDP. In 55 cases (86%) there is a policy which specifically refers to the provision of affordable housing. In London and the South West all respondents with adopted plans reported that these contained an affordable housing policy. In the West Midlands and the South East comparable figures were 86% and 83% respectively. In the North West 71% of adopted plans contained an affordable housing policy.

62 respondents reported that their local authority was currently in the process of preparing a local plan or UDP. 47 of these emerging plans (76%) contained an affordable housing policy. The slightly lower level of affordable housing policies as compared with adopted plans would appear to reflect local authorities whose emerging plan is still at the issues stage and there is as yet no formal published policy.

	<b>Londo n</b>	<b>South East</b>	<b>South West</b>	<b>West Midlands</b>	<b>North West</b>	<b>Tota l</b>
Adopted plan	9	24	10	14	7	64
Affordable housing policy	9	20	10	11	5	55
Emerging plan	9	19	14	12	8	62
Affordable housing policy	9	14	10	9	5	47
<b>Total</b>	<b>9</b>	<b>27</b>	<b>14</b>	<b>14</b>	<b>10</b>	<b>74</b>

Local authorities were asked how they defined affordable housing and whether their definition included low cost and subsidised housing. The table below shows the number of responding authorities whose definition of affordable housing specifically includes low-cost market housing and those where it is specifically excluded.

<b>Authorities including Low-Cost Market housing within a definition of affordable housing</b>				
	<b>In adopted plans</b>		<b>In emerging plans</b>	
	<b>Include LCM</b>	<b>Exclude LCM</b>	<b>Include LCM</b>	<b>Exclude LCM</b>
Gr London	3	3	4	2
South East	10	4	8	5
South West	7	1	5	2
West Mids	6	1	6	1
North West	2	0	3	0
<b>All</b>	<b>28</b>	<b>9</b>	<b>26</b>	<b>10</b>

**Note:** (Not all local authorities with an affordable housing policy have a clear definition in the plan, figures are not therefore comparable with those in the previous table).

37 authorities answered this question concerning their adopted plan. 28 authorities (76%) included both low cost and subsidised housing in their definition of affordable housing. All local authorities in the North West and all except one authority in the West Midlands included low

cost housing in their definition of affordable housing. 87% of authorities in the South West included low cost housing, 71% of those in the South East did so, but only 50% in London. There would appear to be some correlation between pressured housing markets and a reluctance to accept low-cost market housing as affordable, whilst in less pressured market areas local authorities appear more willing to accept low-cost market housing.

With regard to emerging plans 72% of local authorities included low-cost market housing in their definition of affordable housing. Again authorities in the North West and West Midlands were more likely to include low-cost market housing in their definition, whilst authorities in London (66%) and the South East (61%) were least likely to do so.

Evidence from the case studies and the scoping survey suggests that there are a number of possible reasons for this:

- Pressured markets are usually higher priced. The housing needs survey may indicate that low-cost market housing is not affordable to those in need because of their income profile.
- In pressured markets where there is high demand for affordable housing the authority may have taken a political decision that the affordable housing policy should be used to benefit those on the lowest incomes who are perceived as most in need and who can only afford social rented housing.
- In areas where house prices are relatively low the provision of new housing may be perceived as contributing to wider economic objectives and there may be more ready acceptance of the role of low cost housing in retaining skilled people and strengthening the local economic base.

## 6. Use of Targets and Thresholds

Local authorities were asked whether their adopted and emerging plans included a numeric or percentage target for affordable housing provision. 25 authorities answered this question about their adopted plan and 33 about the emerging plan. The sample is therefore relatively small and should be treated with caution.

	<b>Adopted plan</b>	<b>Emerging Plan</b>
Numeric target	18	21
Percentage target	7	12
<b>Total:</b>	<b>25</b>	<b>33</b>

The results point to a clear preference for numeric targets: 71% of adopted plans and 64% of emerging plans. Three authorities had both a numeric and a percentage target in their adopted plan. Five authorities had both a numeric and a percentage target in their emerging plan. Local authorities appeared consistent in their approach with only one authority changing from a percentage to a numeric approach between the adopted and the emerging plan.

Of those authorities who used a percentage target, six of the seven adopted plans had a 25% target and one a 20% target. Percentage targets in emerging plans were higher: six authorities had a 30% target, three a 25% target and two a 20% target. One authority had a range target

of 20-30% and one had a target of 35% .

Samples at regional level were too small to permit meaningful analysis, but there is some indication that London authorities, in their adopted plans, were more likely to adopt a percentage rather than a numeric target.

### *Thresholds*

28 local authorities provided information about thresholds in adopted local plans/UDPs. 31 local authorities provided information about emerging plans. In the case of emerging plans all except one of the responding local authorities quoted a threshold based upon both a minimum number of dwellings and site size. In the case of adopted plans 14 local authorities quoted a threshold based on number of dwellings only. One authority quoted a threshold based purely on site size. The comparative analysis below is based on number of dwellings.

<b>Threshold No of dwellings</b>	<b>Adopted plan</b>	<b>Total</b>
5	1	1
10	1	0
12	1	0
15	5	9
20	6	1
25	11	19
40	1	1
50	1	0
<b>Total:</b>	<b>28</b>	<b>31</b>

In both cases a 25 dwelling threshold is the most popular: 39% of adopted plans and 61% of emerging plans. Adopted plans show a significant minority of local authorities seeking either a 20 dwelling threshold (six responses) or a 15 dwelling threshold (five responses). Emerging plans show a clearer preference for a 15 dwelling threshold (nine responses) as the favoured minority position. This would appear to relate to the guidance in Circular 6/98 (paragraph 10.i) which enables local authorities to adopt a lower threshold between 15 and 25 units where they can demonstrate exceptional local constraints.

Five of the nine authorities with a 15 dwelling threshold in their emerging UDP were London authorities, but only three of them were Inner London authorities within the meaning of Circular 6/98. Of the remaining authorities with a 15 dwelling threshold three were in the South East and one in the South West. one authority in the West Midlands had a 20 dwelling threshold in its emerging plan.

The postal survey provided very few instances of thresholds below 15 units, although a number of case study authorities indicated that they would wish to adopt such a threshold if it was lawful to do so and we were provided with anecdotal information about individual local authorities whose policies pre-dated Circular 6/98 who had a lower threshold.

## **7. Use of Supplementary Planning Guidance**

19 local authorities (35% of those with an affordable housing policy in their adopted plan)

indicated that they had adopted or unadopted supplementary planning guidance relating to affordable housing.

The proportion of local authorities who had prepared SPG relating to affordable housing was highest in the West Midlands where seven out of 14 possible respondents (50%) were using SPG in one form or another. 21% of respondents in the South West were making use of SPG. 22% of London authorities and 18% of respondents in the South East made use of SPG. There were no respondents in the North West using SPG relating to affordable housing.

	<b>Adopted SPG</b>	<b>SPG not formally adopted</b>
London	1	1
South East	3	2
South West	3	2
West Midlands	3	4
North West	0	0
<b>Total</b>	<b>10</b>	<b>9</b>

## **8. Tenure of Affordable Housing Granted Planning Permission Through Section 106 Agreements**

Local authorities were asked the number of units of affordable housing secured through planning agreements and the tenure of dwellings secured over the two years from April 1998 to March 2000. 36 local authorities answered this question. These authorities have secured 6374 affordable dwellings via the planning system between 1998 and 2000 (an average of 177 dwellings per authority). 5,000 of these dwellings (79%) are for social rent and 450 (7%) are shared ownership homes. The remaining 924 (14%) are tenure unspecified.

There was evidence of a strong preference for social rented housing in the South East (90% of units approved) South West (89%) and London (78%). In the West Midlands 71% of affordable housing approvals were for social rented housing. Only in the North West (on a very small sample of two urban authorities) did social rent come behind other tenures - in these cases believed to be low-cost market housing.

## **9. Section 106 Agreements**

In the two years from April 1998 to March 2000 41 local authorities (75% of those with an affordable housing policy) have concluded Section 106 agreements which deal with affordable housing. 34 authorities have Section 106 agreements under negotiation.

Local authorities in London and the South West are more likely to have had experience of Section 106 agreements, but more than half of all authorities in the West Midlands and the South East have concluded or are negotiating Section 106 agreements relating to affordable housing. However only 30% of authorities in the North West have concluded a Section 106 agreement relating to affordable housing and only one responding authority in that region is currently negotiating a Section 106 agreement relating to affordable housing.

	<b>Section 106 agreements concluded</b>	<b>Section 106 agreements under negotiation</b>

London	6	67%	5	55%
South East	15	55%	11	41%
South West	9	64%	9	64%
West Midlands	8	57%	8	57%
North West	3	30%	1	10%
<b>Total:</b>	<b>41</b>		<b>34</b>	

*Note percentage figures relate to the proportion of authorities with an affordable housing policy in their adopted plan.*

Five authorities have accepted a unilateral undertaking and ten authorities have used other mechanisms such as resale covenants, planning conditions and option agreements.

## 10. Use of Commuted Sums

21 authorities (38% of those with an affordable housing policy in the plan) reported that they have received a financial contribution or accepted a commuted sum towards affordable housing provision. eight authorities provide specific guidance relating to the calculation of commuted sums.

	Accepted a financial contribution or commuted sum		Provide specific guidance relating to the calculation of commuted sums
London	3	33%	3
South East	6	30%	1
South West	5	50%	1
West Midlands	6	50%	3
North West	1	15%	0
<b>Total:</b>	<b>21</b>	<b>38%</b>	<b>8</b>

*Note percentage figures relate to the proportion of authorities with an affordable housing policy in their adopted plan.*

Local authorities in the West Midlands and South West are most likely to have accepted a financial contribution or commuted sum with 50% of authorities with an affordable housing policy in their adopted plan having done so. Around one third of authorities in London and the South East have done so but only one responding authority in the North West has accepted a financial contribution or commuted sum.

All London authorities who reported that they had received a commuted sum had provided guidance on the calculation of commuted sums. 50% of authorities in the West Midlands who had received a commuted sum had provided such guidance. In other regions local authorities did not generally report that they had provided guidance on negotiation of commuted sums.

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## Appendix B

Tables 1 and 2 provide a summary of the questionnaire responses to key issues. Regional and overall responses are summarised.

Region	% of local authorities that conducted housing needs assessment	% currently undertaking/ updating local needs assessment	% planning to undertake/ update local needs assessment in next 2 years	% local authorities with adopted UDP/local plan	% adopted or emerging UDP's/ local plans specifically referring to provision of affordable housing	% LAs with formally adopted SPG relating to provision of affordable housing	% LAs with other SPG relating to affordable housing, not formally adopted	Of those with adopted plan, % with overall numeric and/or percentage target relating to AH <sup>1</sup>
Gr. London	77 (9)	62.5 (8)	71.4 (7)	100 (9)	100 (9)	12.5 (8)	11.1 (9)	55.6 (9)
North West	90 (10)	11.1 (9)	33.3 (6)	70 (10)	88.9 (9)	0 (10)	0 (9)	42.9 (10)
South East	100(28)	25.9 (27)	75 (24)	88.9 (27)	100 (26)	11.1 (27)	8.3 (24)	33.3 (27)
South West	76.9(13)	58.3 (12)	70 (10)	76.9 (13)	100 (13)	27.3 (11)	15.4 (13)	30 (13)
West Midlands	92.9 (14)	50 (12)	60 (10)	100 (14)	100 (13)	21.4 (14)	30.8 (13)	7.1 (14)
Overall	90.5 (74)	38.2 (68)	66.6 (57)	87.7 (73)	98.6 (70)	14.3 (70)	13.2 (68)	30.1 (73)

(numbers in brackets indicate number of responses to question)  
<sup>1</sup>Non-response from local authorities with an adopted plan in this case is assumed to mean there is no target.

(i) Have conducted housing needs assessments  
(ii) Are currently undertaking or updating needs assessments  
(iii) Are planning to undertake needs assessments in the next two years  
(iv) Have an adopted UDP/local plan  
(v) Have an adopted or emerging plan that specifically refers to the provision of affordable housing  
(vi) Have adopted SPG relating to the provision of affordable housing  
(vii) Have other, not formally adopted, SPG relating to the provision of affordable housing  
(viii) Have an adopted plan with numeric or percentage targets relating to the provision of affordable housing

Region	Range of site thresholds (by number of dwellings) in adopted and emerging plans	% LAs including definition of AH in local plan	% LAs including low cost and subsidised housing in this definition	Range of % of all planning permission secured through S106 agreements	Range of rented housing as % of all affordable dwellings granted planning permission	Range of rented housing as % of all affordable dwellings completed	% of LAs accepting commuted sums from developers for AH schemes	% LAs providing specific guidance to developers and HAs relating to calculation of commuted sums	% LAs with joint commissioning arrangement with HAs to provide AH
Gr. London	1-50 (8)	75 (8)	50 (6)	0-96.1 (6)	0-100 (5)	69.3-100 (5)	37.5 (8)	37.5 (8)	12.5 (8)
North West	2-25 (3)	50 (8)	100 (4)	100-100 (2)	20.6-29.4 (2)	0-100 (3)	16.7 (5)	0 (5)	0 (8)
South East	5-50 (23)	93.8 (16)	68.8 (16)	18.8-100 (15)	15.8-100 (14)	75.7-100 (17)	20 (20)	5 (20)	35.3 (17)
South West	0-25 (6)	90.9 (11)	100 (8)	5-78.2 (9)	0-100 (8)	80.2-100 (9)	33.3 (12)	9.1 (11)	50 (12)
West Midlands	1-40 (11)	63.6 (11)	100 (8)	6-88.5 (7)	45-100 (7)	35.3-100 (8)	45.5 (11)	25 (12)	41.7 (12)
Overall	0-50 (51)	77.8 (54)	81 (42)	0-100 (39)	0-100 (36)	0-100 (42)	29.8 (57)	14.3 (56)	31.6 (57)

(numbers in brackets indicate number of responses to question)

(i) The full range of site thresholds when considering policies in both adopted and emerging plans  
(ii) The percentage of local authorities which include a definition of affordable housing in their local plan  
(iii) The percentage of local authorities which include low cost and subsidised housing within the definition of affordable housing  
(iv) The percentage of all affordable dwelling planning permissions secured through Section 106 agreements, expressed as a range  
(v) The percentage of all affordable dwellings granted planning permission for social rent, expressed as a range  
(vi) As (v) above, but based on completions, not planning permissions  
(vii) The percentage of all authorities accepting commuted sums from developers  
(viii) The percentage of all local authorities providing specific guidance on calculating commuted sums for developers and housing associations  
(ix) The percentage of authorities with joint commissioning arrangements with housing associations with the aim of affordable housing provision

