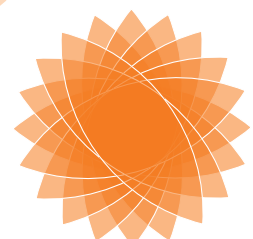




Local Development Framework

# Affordable Housing Supplementary Planning Document

Adopted September 2008



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North Kesteven District Council

### **Alternative Formats:**

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## **Section A. Introduction and Context**

### **1.0 Objectives**

- 1.1 The Objective of this Supplementary Planning Document (SPD) is to assist the Council in meeting affordable housing needs in the District by providing guidance on the process of delivering affordable housing in accordance with Local and National Planning Policies – notably Policies H5 and H6 in the adopted North Kesteven Local Plan.

### **2.0 Status of Document**

- 2.1 This Supplementary Planning Document is supplementary guidance to Policies H5 and H6 of the adopted North Kesteven Local Plan 2007 and is a material consideration in the determination of planning applications.

### **3.0 Background Reasons for Producing Document**

- 3.1 The cornerstone of all Government planning policy is formed by Planning Policy Statement 1 – Delivering Sustainable Development (PPS1 - 2005), which sets out the Government's overall objectives for the planning system. PPS1 states that one of the four aims of sustainable development is, 'social progress which recognises the needs of everyone'. PPS1 also commits the Government to, 'meeting the diverse needs of all people in existing and future communities', and creating, 'socially inclusive communities, including suitable mixes of housing.'
- 3.2 In its Development Plan, North Kesteven District Council has recognised that not all its citizens are able to compete for suitable accommodation on the open housing market (either to purchase or to rent), and has devised planning policies which require 'affordable housing' to be provided through the planning system. This Supplementary Planning Document describes in greater detail the steps to be taken by the Council which are designed to ensure that a proportion of affordable housing is included in future significant housing developments in the District.
- 3.3 The SPD clarifies the process for delivery of affordable housing provision so that the development industry will then have a fuller understanding of how it can meet its obligations under Local Plan Policies, and will be better equipped and prepared to carry out its negotiations for land purchase and to submit its planning proposals. The public will also have a better knowledge of the measures being taken by the Council, on its behalf, to satisfy a basic human need for appropriate housing accommodation.

- 3.4 In order to justify the provision of affordable housing through the planning system, a need for such accommodation must be established. The Council therefore commissioned the Housing Needs Assessment. This Report, the North Kesteven Housing Study, was published in March 2005. The Council's approach to this matter is guided by Government policy and by the findings of the Housing Study.

## **4.0 Purpose and Scope of the Document**

- 4.1 The purpose of the SPD is to expand upon the above Local Plan policies, and to indicate in more detail how they are to be applied in practice. In particular the following aspects of the policies will be examined: -
- The meaning and definition of 'affordable housing'.
  - The means by which the affordable housing requirement is to be secured, and attached to a grant of planning permission.
  - The arrangements for 'off site' provision of affordable housing, or its conversion to a financial contribution to be used elsewhere.
  - Design and site layout considerations.

## **5.0 Consultation and Appraisal**

- 5.1 This SPD has been subject to formal public consultation, which has informed its development. The Council has consulted with developers, Registered Social Landlords and the public on the contents of this SPD.
- 5.2 A Sustainability Appraisal has been prepared alongside this SPD, with the objective of promoting sustainable development. The SPD is therefore accompanied by a Sustainability Appraisal Report showing how the social, environmental and economic effects have been considered in its preparation. This has also been subject to public consultation.
- 5.3 After consideration of consultation representations, the full Council meeting of 28 February 2008 resolved that an amended version of the draft SPD be approved for adoption – this SPD.

## **Section B. Policy Context – Government and Local Authority Policy**

### **6.0 National Policy**

#### Planning Policy Statement 3 - Housing (PPS3 – November 2006)

6.1 PPS3 was published by the government on 29 November 2006. It sets out the government's national Planning policy framework for delivering the government's housing objectives. *PPS3: Housing* and its accompanying advice and guidance, have replaced previous national planning policy and guidance set out in *Planning Policy Guidance 3 – Housing (PPG3 - March 2000)* and in *DETR Circular 6/98 – Planning and Affordable Housing (1998)*, which have now been cancelled. Affordable housing has a stronger focus throughout PPS3 than PPG3 and reflects government commitment to delivery of mixed tenure housing, addressing the full spectrum of housing needed by communities. The implications of PPS3 for Planning for affordable housing provision are set out below.

#### 6.2 PPS3 – General Planning Expectations

The general housing outcomes that the government expects the planning system to deliver (through development plans and planning decisions) identified in PPS3 are:-

- High quality housing that is well-designed and built to a high standard.
- A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.
- A sufficient quantity of housing taking into account need and demand and seeking to improve choice.
- Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.
- A flexible, responsive supply of land – managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate.

#### PPS3 – Affordable Housing Planning requirements

6.3 PPS3 states central government's commitment to providing affordable housing. It states that national planning policy includes achieving provision of affordable high quality housing for those unable to access or afford market housing. In local development documents, local planning authorities should require the provision of affordable housing on housing development sites, setting out minimum site-size thresholds and proportions required. Affordable housing provision is therefore a national planning policy requirement. In addition, when making planning decisions



for housing developments after 1 April 2007, local planning authorities should have regard to the policies in PPS3 as material considerations, which may supersede the policies in existing Development Plans.

- 6.4 With specific reference to Affordable and Market Housing, PPS3 states that Local Development Documents should seek to meet the needs and demand for housing in their area by:-
- Setting out proportions of households requiring market and affordable housing.
  - Specifying the types of households requiring market housing.
  - Including a plan-wide Target for affordable housing, taking account of need and availability of finance.
  - Setting separate Targets for social rented and intermediate housing where appropriate.
  - Specify the size and type of affordable housing needed.
  - Setting out the range of circumstances where affordable housing is required, taking account of the national indicative minimum threshold of 15 dwellings, setting lower thresholds where viable and practicable such as in rural areas.
  - Describing the approach to seeking developer contributions to affordable housing, on and off-site.
  - Considering allocating and releasing “exceptions sites” for affordable housing in rural settlements, to be retained in perpetuity and meet the needs of households with a local connection.
  - Recognising that the definition of affordable housing has been amended, to include social rented housing and intermediate housing, but exclude low cost market housing. Annex B of PPS3 sets out the new planning definitions in full.

#### PPS3 – Strategic Housing Market Assessments & local evidence

- 6.5 PPS3 advises local planning authorities that the various affordable and market housing targets and specifications (set out above) for inclusion in Local Development Documents should be based upon and take into account the findings, level of need and information identified in the Strategic Housing Market Assessment (SHMA) and other local evidence. SHMAs are based on Housing Market Areas, and include an assessment of local housing needs.
- 6.6 The reference to Housing Market Areas (HMA) for the basis of provision of affordable housing is another main change of PPS3. Annex B of PPS3 defines HMAs as: “Geographical areas defined by household demand and preferences for housing. They reflect the key functional linkages between places where people live and work.” North Kesteven is part of the Central Lincolnshire Housing Market Area which includes the City of Lincoln, North Kesteven and West Lindsey.
- 6.7 Regional Spatial Strategy (RSS) will set out the housing market areas, and provide the affordable housing target for each area within the region. The emerging new East Midlands RSS Regional Spatial Strategy will also set out the overall level of general housing provision (i.e. housing allocation numbers) for constituent housing market and local planning

authority areas, based upon the appropriate evidence of housing market, housing need, demand and land availability.

- 6.8 Strategic Housing Market Assessment (SHMA) is a requirement of PPS3 to provide evidence to inform the development of both the new Local Development Framework process and the new Regional Spatial Strategy processes. The emerging Draft new RSS 8, which will set future strategic policies for the LDF, is not yet adopted. A SHMA has been commissioned and is underway for the Central Lincolnshire HMA, including North Kesteven, and is moving towards completion. The SHMA is part of the evidence base required to underpin the Local Development Framework and therefore the contents will directly influence and inform the preparation of all the future housing and affordable housing planning policies as part of the LDF Core Strategy. When published, the SHMA will also provide additional general background evidence of current housing need and demand. The SHMA will also provide up to date housing needs evidence to inform decisions on current planning applications.
- 6.9 The current adopted Local Plan affordable housing policies, which this SPD supplements, have been based on the most recent housing needs assessment evidence available – the North Kesteven Housing Needs Study 2005 (see Section 10 of the SPD).

#### Local Development Documents & Accordance with PPS3

- 6.10 PPS3 advises local authorities to consider the extent to which emerging Local Development Documents can have regard to the policies in the Statement, while maintaining plan-making programmes.
- 6.11 This SPD is produced to supplement and relate to the parent affordable housing Policies in the North Kesteven Local Plan (adopted September 2007), which conforms with relevant Policies in the adopted Lincolnshire Structure Plan (September 2006). The Regional Planning Body (EMRA) has confirmed that this SPD is in general conformity and compliance with policies in the adopted Regional Spatial Strategy (RSS8 March 2005). This is because the SPD directly addresses the identified affordable housing shortage need determined by a local housing needs assessment (the Housing Needs Study 2005). The emerging Draft new RSS 8 is yet to be adopted, and the first Development Plan Documents (DPDs) for the North Kesteven Local Development Framework are at an early stage of production.
- 6.12 With regard to the adopted North Kesteven Local Plan and PPS3, the Council considered that due to the timing of PPS3's publication it was unlikely that the Plan would be fully compliant with a number of new requirements set out in PPS3. However, the Council considered that the approaches to housing in the Local Plan's provisions was consistent with the government's key principles, and outcomes, for planning for housing set out in PPS3. The Plan was in conformity with the relevant adopted Structure Plan and RSS. It was considered that the emerging Local Plan has had regard to emerging government policy in the form of PPS3. The Council considered that there was no reason not to adopt the Local Plan,

which it decided was in accordance with the underlying key principles of PPS3. The Housing Market Assessment was underway, and it was considered that any deficiencies would be best met through pursuing the scheduled preparation of the new Local Development Framework (LDF) Core Strategy policies, when a more comprehensive and fuller evidence base would be available, to ensure full accordance with PPS3.

6.13 With particular reference to Local Plan affordable housing policy reflecting PPS3, changes have been made during the adoption process to Policy H5 (Affordable Housing), its supporting text and affordable housing definitions in the Local Plan, to accord with guidance in the final PPS3. The Council decided to proceed to Local Plan adoption, based on a recent Inquiry examination, recent Housing Needs Study (2005) evidence, and after considering public representations, so as not to leave a local planning policy vacuum. It is now proceeding on to immediate preparation of new LDF documents, as set out in the Local Development Scheme (LDS) programme. LDF Policy documents will then be fully based on all of PPS3's new requirements, as time will allow for gathering the relevant new evidence and studies (e.g. final Strategic Housing Market Assessments) to inform the development of new policies.

6.14 This SPD has therefore been modified, after public consultation, to conform and relate to the modified saved parent affordable housing Policies and text in the adopted Local Plan 2007. The SPD is therefore also considered to be in accordance with the underlying key principles of PPS3.

6.15 'Delivering Affordable Housing' (November 2006)

Alongside PPS3 on Housing the government also published its companion Affordable Housing Policy Statement titled "*Delivering Affordable Housing*" (November 2006), to be read in conjunction with PPS3. This guidance document aims to support local authorities and other key players in delivering more high quality affordable housing within mixed sustainable communities by using all the tools available to them. It provides information on how existing delivery mechanisms operate to help in delivery, and outlines the affordable housing challenge that needs to be met. It includes the government aims for affordable housing (para. 3), and states that the government is keen to encourage the provision of affordable housing without grant where possible (para. 96), including by effective use of developer contributions through planning obligations (para. 9). The government acknowledges that some details of delivery mechanisms will evolve and change, and would expect to update this document periodically.

- 6.16 Circular 05/2005 'Planning Obligations:  
Circular 05/2005 gives revised guidance on the use of planning obligations under Section 106 of the Town and Country Planning Act 1990 as substituted by the Planning and Compensation Act 1991. The Circular clarifies the basis on which planning obligations should be assessed for their acceptability in policy terms and gives further guidance on the process of securing obligations. Planning obligations (or Section 106 agreements) are private agreements negotiated, usually in the context of planning applications, between local planning authorities and persons with an interest in a piece of land, and are intended to make acceptable development which would otherwise be unacceptable in planning terms. Obligations can also be secured through unilateral undertakings by developers. The national guidance on Planning Obligations in Circular 05/05 is a material consideration when planning obligation agreements are being drawn up.

## **7.0 Regional Policy**

- 7.1 The adopted Regional Spatial Strategy for the East Midlands (RSS8, March 2005), at Policy 18 - Regional Priorities for Affordable Housing, requires the provision of, 'a mix of dwellings in terms of size, type, affordability and location, in order to help create inclusive communities which provide wider housing opportunity and choice.'
- 7.2 The emerging Draft new RSS 8 (Public Consultation Draft East Midlands Regional Plan, 28 September 2006) has Policy 15 – Regional Priorities for Affordable Housing. This requires Local Development Frameworks, housing strategies and investment plans to "include policies seeking the provision of a mix of dwellings in terms of size, type, affordability and location, having regard to the existing local stock, in order to help create inclusive communities which provide wider housing opportunity and choice."
- 7.3 The Draft RSS also sets out Interim affordable housing targets for each Housing Market Area (HMA) grouping, representing as percentages of total housing provision (in Policy 14). The interim targets (not maximum) for the Central Lincolnshire HMA (North Kesteven, Lincoln City and West Lindsey) are: 27% social rented, 2% intermediate housing.

Such Interim figures will be supplemented by local information drawn from surveys. These targets will therefore be revised in response to more detailed information. Not all the housing will be necessarily be provided as a proportion of larger developments, but could be provided on sites developed as 100% affordable housing by Registered Social Landlords.

- 7.4 After an Examination in Public (EiP) held from May to July 2007, the independent Panel Report on the draft East Midlands Regional Plan (RSS) was published in November 2007. For draft Policy 15 on Affordable Housing, the Panel recommended changes, so that percentages be

replaced by numbers, and the inclusion of a single figure for each Housing Market Area. The next steps are: that the Secretary of State: considers the Panel recommendations; publishes and consults on his/her Proposed Changes to the Draft Plan (in 2008); considers representations; then publishes final new Regional Plan (RSS). This emerging RSS will inform the development of future local policy in the Local Development Framework (LDF).

## **8.0 Lincolnshire County Council Policy**

8.1 The Lincolnshire County Structure Plan (Adoption Version September 2006) at Policy H4: Affordable Housing Provision, requires Local Plans and Local Development Frameworks to include Policies on Affordable Housing provision, which are supported by up to date Housing Needs Assessments for Housing Market or Journey to Work Areas, and which set achievable targets for such provision consistent with the overall housing provision in Structure Plan Policy H1.

8.2 It also states that affordable housing: “should be integrated within each private housing scheme rather than being on a separate part of the site.” Also: “On private housing sites arrangements should be made to ensure that the affordable housing element is provided at below market value and that this benefit will be transferred to subsequent occupiers in perpetuity.”

## **9.0 North Kesteven District Council Policy**

9.1 **The North Kesteven Community Strategy 2006 – 2016** recognises that although house prices have traditionally been low, there have been substantial recent increases, and that consequently, housing has tended to move out of reach of those on average earnings in the District. The Strategy is therefore committed to the construction of more new affordable housing.

9.2 **The Council’s Housing Strategy** has now been recognised by the Office of the Deputy Prime Minister as being ‘fit for purpose’. The Strategy acknowledges the findings of the Housing Needs Assessment Study. Affordable housing has been adopted as one of six priority areas for action and will be addressed by: requiring a 35% affordable housing contribution from private developers, pursuing ‘rural exceptions’ sites, as well as making Council owned land available for development by Registered Social Landlords.

9.3 **The Adopted North Kesteven Local Plan 2007** includes two policies relating to affordable housing – Policies H5 and H6. This SPD is supplementary guidance to these parent policies in the adopted Local Plan. These Policies are described below. For clarity and information, the full text of these 2 adopted Local Plan policies, along with their supporting and justification text, are set out in Appendix 1 to this SPD.

- 9.4 The Local Plan introductory text – repeated at Appendix 1(1) - includes a definition of affordable housing (paragraph 4.30), and sets out the Council’s desire, in certain cases, to limit occupancy to local people who are in need of affordable housing accommodation (paragraph 4.31).
- 9.5 **Local Plan Policy H5 – Affordable Housing (2007)** sets out a requirement for affordable housing to be provided as part of all developments involving housing, including windfall sites (paragraph 4.37). The Policy requires that affordable housing be provided on all residential developments across the District that will create 5 or more dwelling units, or involve a site area of 0.3 hectares or more. The Council will require the provision of 35% of dwelling units on new developments as affordable housing. See Appendix 1(2) for the full wording of Policy H5 (2007).
- 9.6 This adopted Local Plan policy stipulates a number of conditions will need to apply in order to trigger the affordable housing requirement, including the following:
- A local need for affordable housing has been established through the Council’s Housing Needs Study or through another survey.
  - The site is within a reasonable distance of local services and facilities and public transport services.
  - The provision of affordable dwellings will not prejudice the economic viability of the development, or prejudice the realisation of other planning objectives considered to outweigh the provision of affordable housing.
  - However, a developer will have to demonstrate that there are exceptional development costs which affect the viability of a development, before the Council may consider a lower proportion of affordable dwellings than the Policy requires on sites.
- 9.7 The Local Plan’s presumption and intention is that the affordable housing element of any housing development should be fully incorporated and integrated into that development, and built on site. However, circumstances may arise where it may be preferable for the affordable housing element to be provided on another site, or commuted to a cash sum, to be used by the Council to subsidise housing on a future development.
- 9.8 **Local Plan Policy H6 - Affordable Housing on Rural Exceptions Sites (2007)** is concerned with the provision of affordable housing within or on the fringes of villages where general market housing would not normally be permitted. The provision would be specifically for local people where:
- A local need has been established, through the Councils Housing Needs survey or through another survey.
  - The need cannot be reasonably met by sites with existing planning permissions or through local plan housing allocations.
  - The development will not adversely affect the character or appearance of the area.
  - The development is of a scale that is in keeping with the identified need, and the nature of the settlement.
  - The site is within reasonable distance of local services and facilities and public transport services.

See Appendix 1(3) for the full wording of Policy H6.

- 9.9 With both policies H5 and H6, where the affordable housing is not to be managed by a registered social landlord, planning permission will be subject to conditions and/or agreements applied to ensure that priority is given to local people in need of affordable homes to occupy the dwellings; and that the dwellings remain available to be enjoyed in perpetuity for those in housing need, that is: not only by the first occupier, but also by all subsequent occupiers.

## **Section C. Housing Need and Supply**

### **10.0 The Need for Affordable Housing – The North Kesteven District Housing Needs Study 2005**

10.1 The nature and extent of the need for affordable housing has been examined and identified by the Housing Study which was commissioned by the Council, undertaken in 2004, and finished and published in March 2005. The main findings of the Study lead to a definition of the need, and identified the level of need, for affordable housing in North Kesteven. The Council's Executive Board adopted the Fordhams Housing Study (the Housing Needs Assessment for North Kesteven District) on 24 March 2005.

#### Housing Prices, Rents, Income levels and Supply

10.2 The North Kesteven Housing Needs Study surveyed and analysed the local housing market and local household income. As part of the process this Study conducted a Residents Survey which identified the aspirations of residents and related this to their available household Income. The Study undertook an analysis of the Housing Market (prices and rents) to identify the current cost of housing. It also examined the current Supply of affordable housing.

10.3 The widening gap between housing costs, particularly owner-occupation, and household income has resulted in fewer local household being able to afford housing in North Kesteven.

#### Assessment of affordable housing Needs – and Indicative Level of Need

10.4 In accordance with Government guidance on Local Housing Needs Assessment, a 'Basic Needs Assessment Model' was used to calculate affordable housing needs. The Study took into account the existing backlog of need, then added the need newly arising each year, and then subtracted the supply of affordable units becoming available each year.

10.5 The Study concluded:

- There was an annual shortfall of 462 affordable housing units per year. This rate of construction would be needed for a period of 5 years (2004-2009) until the backlog in need was cleared.
- Subsequently the annual requirement would be for newly arising need alone, and would therefore fall to 333 houses per year (2010-2014).

10.6 An alternative form of analysis of housing need is the 'Balancing Housing Markets' approach, and this was also employed by the survey. This methodology looks at the future aspirations of households, and their ability



to afford the type of accommodation required. The results showed a need for 320 affordable houses per year. They also showed a need for smaller owner occupation units, and a surplus of private rented accommodation, with the exception of single bedroom units. The affordable housing need was shown to be concentrated in the one and two bedroom dwelling units range, although there was also significant need for three and four bedroom affordable dwellings.

## **11.0 Parish Based Local Needs Assessments**

- 11.1 The adopted Local Plan Policies H5 and H6 identify that the Council will require affordable housing provision where a local need for affordable housing has been identified in the Council's Housing Needs Study/survey or through another survey, the format and findings of which the Council has agreed.
- 11.2 The Council has adopted (Executive Board – 24 March 2005) the findings of the Housing Needs Study which identified the District-wide shortage of and need for affordable housing. However the Study also provides evidence of a likely need for rural exceptions sites, although it concludes that consideration of those should be subject to a local needs assessment on a parish basis, to identify specific local need and the willingness of the host community to accept such development. In practice the Council will liaise closely with Parish Councils and communities - when establishing where a local need for affordable housing is identified and agreed; and when rural exceptions affordable housing sites are proposed. The District Study, therefore, does not assess the level of need within each parish. This is the purpose of Local Housing Needs Surveys. The production of such Parish based local housing needs assessments to support development of rural exceptions sites are considered to examples of the 'other surveys' the planning policy is referring to.
- 11.3 Also, there is scope for other organisations and private developers themselves to conduct Local Housing Needs Assessments or surveys of particular areas, the format and findings of which the Council has agreed, and subject to meeting government guidance.
- 11.4 The Local Housing Needs Assessments (District-wide and settlement based) form part of the Council's evidence base for planning policy formulation, and will need to be subject to monitoring and review and updating, as needs dictate.

## **12.0 North Kesteven Housing Department Register**

- 12.1 North Kesteven District Council's Housing Register, kept by the Council's Housing and Property Services Department, records the needs and preferences of applicants for Council accommodation. It is constantly being updated and can be analysed to extract information about the situations of current applicants as a whole or of those with selected

characteristics. The Register does not provide a comprehensive picture of housing need in the District but can give valuable insights when considered in conjunction with the other sources of information.

12.2 The Council's Housing Register (or council housing waiting list) is therefore another source of information on those people in housing need in the local area.

12.3 The Housing Department can supply certain information, as well as being able to assist with information on Registered Social Landlords willing to participate in affordable housing provision in the area (see Contacts section).

## **Section D.**

### **Definition and Meaning of Affordable Housing**

#### **13.0 Definition of Affordable Housing**

##### **13.1 Local Plan**

The definition of affordable housing is as set out in the Adopted North Kesteven Local Plan 2007, in the introductory supporting text to the affordable housing policies (para 4.30). It is repeated below, for clarity. This definition conforms with and is in accordance with the current definition set out in PPS3.

##### **13.2 Definition**

The Local Plan definition of affordable housing, and local definition of housing need, is:

**“Affordable housing means housing which is accessible to people whose income does not enable them to afford to buy or rent market housing locally. It is non-market housing, provided to those whose needs are not met by the market. It includes social-rented and intermediate housing.**

**Social-rented housing is rented housing provided by local authorities and registered social landlords and other persons or bodies, for which guideline target rents are determined through the national rent regime.**

**Intermediate housing is housing at prices or rents above social-rent but below market prices or rents. This can include shared equity /shared ownership products and intermediate rent (i.e. rent above social-rented but below market rents).**

**This definition excludes low cost market housing, which the Government does not consider, for planning purposes, to be affordable housing.**

**Affordable housing secured through the planning system should include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.**

**The Council defines Housing Need as those households who are in need of subsidised housing because the cost of appropriate housing (house prices or rents) is higher than 25% of the household’s net income.”**

## **14.0 The Meaning of Affordable Housing.**

- 14.1 Affordable housing is required to accommodate those in 'housing need'. Government guidance is that, 'Housing need refers to households lacking their own housing or living in housing which is inadequate or unsuitable, who are unlikely to be able to meet their needs in the housing market without some assistance.' The North Kesteven Housing Study, in line with advice from the Government, and the National Housing Federation, indicates that a household can afford its accommodation when the cost in terms of rent or mortgage amounts to no more than 25% of the net household income.
- 14.2 The Government issues advice on the calculation of rents for social housing, and therefore the rented component of affordable housing schemes must be devised to comply with that advice. However, the cost of 'intermediate' housing (see Section 17 – Size and Tenure below) may be located between the level of social rents and open market housing costs.
- 14.3 The Council, when negotiating with prospective developers for the provision of rented affordable housing, will expect such provision to be made so that the rent charged will be in accordance with the formula for 'restructured rents' and the national rent regime set out in the Office of the Deputy Prime Minister's 'Guide to Social Rent Reforms' (March 2001)
- 14.4 Future affordable housing occupiers will potentially be subject to existing national social housing provisions, including entitling social housing occupiers to exercise the 'right to buy' (local authority tenants) or the 'right to acquire' (registered social landlord tenants). This enables an occupier to gain or increase ownership of a proportion of the equity of the property, and progress to part-own or fully own their properties. Certain shared ownership/shared equity products enable tenants to "staircase out" in steps moving from part rent/part own to full ownership (e.g. Homebuy) of a property. However, both the adopted Local Plan and PPS3 state that affordable housing secured through the planning system should include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

## **Section E. Negotiating Affordable Housing**

### **15.0 Target Setting for the Provision of Affordable Housing**

- 15.1 The Revised Deposit Draft of the Local Plan indicates that, in line with the housing targets in the current Regional Spatial Strategy, future house building in the District should be proceeding at an annual average completion rate of 379 dwellings. As stated above, the Housing Study indicates the average number of affordable houses required to be built, using the Basic Needs Assessment Model, is 462 dwellings per year, and using the Balancing Housing Markets approach, the affordable housing requirement is 320 dwellings per year. It could be argued with some authority that over a five year period, there is a need for 2310 additional affordable dwellings to be built. However, it is also plain that such a target cannot be achieved solely through the use of the planning system.
- 15.2 The Council will not therefore currently set a numerical planning target for the provision of new affordable housing; but will seek to achieve the highest number of additional affordable housing units possible by applying a percentage requirement to all developments involving new private housing. The Council is striving to achieve as much affordable housing provision on sites as is possible.

### **16.0 Affordable Housing Site Requirements.**

- 16.1 Although as shown above, the full need for affordable housing locally cannot at present be delivered through the planning system, a very substantial contribution to that need can be made. A judgement must be made regarding the balance to be struck between providing for a real need for affordable housing on the one hand, and the need to ensure that the house building industry remains viable and vital, on the other. This judgement has been made on the basis of experience within North Kesteven District, and elsewhere in the County.
- 16.2 Where a development is to be the subject of an affordable housing requirement, the Council will seek an affordable housing contribution of 35% of the total number of dwellings to be created, to be provided on site. The Council starts from the presumption that affordable housing should be provided as part of the proposed development of a site, to be located on the site itself as part of the application. This is consistent with national policy in PPS3 (para 29). The financial implications of complying with the affordable housing policy need to be factored into land value when purchasing a site.
- 16.3 In rare and exceptional circumstances, the Council may except such on site provision may not be viable. Where the prospective developer believes that such a level of contribution will prevent development, he may provide evidence to the Council to demonstrate the economic case for an

exception to be made. The prospective developer should state what level of provision of affordable housing is appropriate.

- 16.4 However, in practice, the only development cost factor the Council may consider as exceptional and justification for reducing the affordable housing percentage requirement will be where a proposal involves development of an important Listed Building.
- 16.5 In appropriate development schemes under planning policy, the provision of affordable housing is not to be considered as an extra abnormal, exceptional or “optional” development cost prejudicing or detrimentally affecting the economic viability of a scheme.
- 16.6 The Council consider that 35% affordable housing provision is to be considered and treated as a normal part of housing scheme site development costs and viability considerations in North Kesteven, and for developers to adjust their economic viability appraisals and profit projections accordingly.
- 16.7 Development site costs which should be known before site purchase, for example potential contamination removal, historic environment locations, listed buildings, are not normally considered sufficient justification for reducing affordable housing requirements.

## **17.0 Size and Tenure of Affordable Housing**

### **17.1 Dwellings Size**

In negotiations with developers concerning the size and type of the affordable housing to be provided, regard will be had to the findings of the Housing Needs Study and to the needs expressed in the housing waiting list. Table 11.1 of the Housing Needs Study shows that approximately two thirds of the affordable housing need is for smaller, one and two bedroom dwelling units and approximately one third of the need is still for three and four bedroom dwellings.

- 17.2 The Council will negotiate for a mix of affordable housing sizes to address needs. The exact proportions will be informed by existing and updated housing need information and an assessment of the prevailing need and existing provision within the settlement that the development is planned.

### **17.3 Dwellings Tenure**

The most appropriate tenure type for affordable housing is for it to be administered by a Registered Social Landlord (RSL). This will ensure that comparatively low, affordable rents are charged and that the affordability will continue for successive occupiers.

However, the definition of affordable housing set out in the adopted Local Plan does recognise that social rented housing may also include rented housing owned or managed by other persons or bodies (such as private developers and Arms Length Management Organisations (ALMOs)) as well as by local authorities and registered social landlords, and provided

under equivalent rental arrangements, as agreed with the local authority or with the Housing Corporation(or succeeding body) as a condition of grant.

- 17.4 However, an element of 'intermediate' housing will also be acceptable. 'Intermediate' housing is where there is a mixture of some of the characteristics of both market and social rented housing, such as shared ownership housing. Costs to occupiers tend to be more than renting from social landlords, but less than market housing. Some of those households identified as being in housing need will be able to afford such housing.
- 17.5 In order to promote the growth of mixed and balanced communities, with a choice of housing, the Council will encourage a mix of social rented and intermediate housing as part of the affordable housing element of new housing developments. Intermediate housing will not exceed 50% of the total number of affordable units to be provided, on each housing development site.

## **18.0 Site-Size Threshold.**

- 18.1 That part of paragraph 9.0 above relating to North Kesteven District Council policy indicates that the Council site-size threshold for housing developments, from which affordable housing will be required, is currently set at schemes that will create 5 or more dwellings or involves a site of 0.3 hectares or more. This policy was in response to the considerable degree of housing need identified by the Housing Needs Study.
- 18.2 The Council is therefore anxious to do as much as it can to maximise the maximum number of affordable housing units provided on sites, without erecting economic barriers to construction. The adoption of a five unit/0.3 hectares threshold will maximise the number of sites which will contribute to the future stock of affordable housing. It will also ensure a wider spread of affordable housing construction; having an impact on rural needs by bringing the smaller sites in smaller settlements within the ambit of the policy.
- 18.3 The Council will consider the comprehensive development of whole development sites to ensure that the necessary benefits to the community are being delivered. Developers may not circumvent Policy H5 by the artificial subdivision of sites. The Council will therefore be alert to, and not permit the artificial subdivision of a site to circumvent or frustrate the operation of H5 (e.g. on thresholds).

## **19.0 Design Considerations**

### General

- 19.1 The Council will expect 'affordable housing' to be well integrated within the overall design of the wider housing development, and not be separated or concentrated together. Housing designs should be similar to those for houses offered for sale on the open market. The affordable housing

should not be visually or operationally distinguishable from market housing in such terms as details, build quality and materials.

Also, the affordable housing should, as far as is practicable, be integrated throughout the development, rather than segregated, to contribute towards creating mixed communities and avoid concentrations of affordable housing.

- 19.2 Detailed designs will be subject to legal agreements, and will incorporate energy efficiency, and other sustainability features such as heating systems with reduced carbon dioxide emissions.
- 19.3 Designs should comply with Housing Corporation or government guidance design standards relating to the provision of affordable housing. Where a RSL or Housing Association is a partner, their design requirements will need to be ascertained and complied with, such as the Housing Corporation's: "Scheme Development Standards" (or any other subsequent replacement document). Overall, where houses are provided for or by an RSL within a housing site the objective is that the affordable housing properties should be indistinguishable from any others.



## **Section F.**

# **Delivery and Implementation of Affordable Housing**

### **20.0 Method for Securing Affordable Housing.**

#### 20.1 Using Planning Conditions and Legal Agreements

Negotiations regarding the details of the size and nature of an affordable housing scheme may well take some time to complete, especially when third parties such as housing associations are involved. Therefore, the Council will in appropriate cases issue a planning permission which is subject to a condition requiring that development cannot begin unless and until detailed arrangements have been reached and agreed between the developer and the Council to provide an acceptable affordable housing scheme. In most cases this will be achieved through a voluntary planning obligation entered into under Section 106 of the Town and Country Planning Act, secured on the land, but other solutions can not be ruled out.

20.2 The planning obligation/ legal agreement referred to above may also include other provisions to secure improvements to social infrastructure if these were required as a condition of the grant of permission. These would be the subject of separate negotiations under Policy C4 of the Local Plan.

20.3 The wording of an example Planning Condition is set out in Appendix 2. Information on how the Council will approach the use of legal agreements and planning obligations and use standard clauses in North Kesteven is set out in Appendix 3. Information on the national model planning obligation (section 106) agreement the Council will utilise is set out in Appendix 4.

#### Meeting Need in Perpetuity

20.4 Ideally affordable housing should be made available to those in housing need in perpetuity, i.e. that dwellings provided by implementation of the Local Plan Policies should remain as being affordable not only to the first occupier, but also to all subsequent occupiers. Where the affordable housing is not to be managed by a registered social landlord, Local Plan Policies H6 and H6 both require that planning permission will be subject to conditions or legal agreements to ensure that the dwellings remain available in perpetuity for those in housing need, i.e. that the affordable housing benefits pass on to all subsequent occupants. However, even if the accommodation is to be administered by a registered social landlord (RSL) then it cannot be assumed that perpetual affordability will be achieved, because properties offered for rent may in some circumstances become the subject of Right to Acquire (RSL tenants) or Right to Buy (local authority tenants), and thence enter the open market. Also, those

properties on equity share arrangements must now, under Government terms for funding, be made available on terms allowing owners to 'staircase out' to 100% property ownership; unless situated in a rural settlement of less than 3,000 population or provided exclusively for the elderly.

20.5 However, both the adopted Local Plan and PPS3 also state that affordable housing secured through the planning system should include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision. Through legal agreements with developers and/or Registered Social Landlords, the Council can secure a number of mitigating measures such as guaranteed 'buy back' by the landlord, or rights to nominate new qualifying purchasers for a limited period before the property is placed on the open market. In some cases, it may be possible to secure reinvestment of surplus monies from the sale of shares of equity in further affordable housing in the District. It must also be appreciated that financial institutions will usually only lend to finance the purchase of shares of equity, if, in the event of default and re-possession, they are free to sell without restriction. Limited requirements to first offer such properties to the Council to purchase or nominate qualifying purchasers may, however, be secured.

20.6 Use of Registered Social Landlords

The Council will normally expect the affordable housing constructed under Policy H5 of the Local Plan to be transferred to a Housing Association or Registered Social Landlord (RSL).

(A RSL means a registered social landlord as defined by the Housing Act 1996, and is an organisation, usually a housing association, registered as such by the Housing Corporation to provide affordable housing).

20.7 It would therefore be appropriate if that organisation was involved in all negotiations between the prospective developer and the Council from an early stage, even, where appropriate, prior to the submission of a planning application. In the first instance, the prospective developer should contact Council officers regarding a potential affordable housing planning application scheme. Where it does not prove possible for a developer to engage with a Housing Association or RSL as a partner, then the Council may agree to accept and administer the properties as part of its own housing stock. In the case of shared ownership, a suitable 'not for profit' body may be offered by a developer as an alternative to a Housing Association.

20.8 Where the housing is not invested in a Housing Association, RSL or the Council, it will be necessary to ensure that the accommodation is available for local people, and to this end, the provisions of the adopted Local Plan on occupancy (paragraph 4.31) will be relied upon. The Council's Housing Register (or council housing waiting list), is one source of information on those people in housing need in the local area. Another source of information on those people in housing need in the Lincolnshire area is information from the managers of the Homebuy Agent register and

web site, regarding people who have registered their enquiries or applications for low-cost or shared home ownership with Homebuy. Contact information for Homebuy is also set out in section 28.0 of the SPD (non Council contacts).

#### 20.9 Rents /Nominations

In all cases the Council will need to be assured that rental levels are set and changed in line with Government guidance. The Council will also expect, for all affordable housing schemes, 100% nomination rights on the first letting of rented or shared ownership properties, and 50% nomination rights in subsequent lettings or sales.

### **21.0 On-Site Provision**

21.1 The presumption is that affordable housing should be provided on site by a developer as part of the proposed development, in order to create mixed and balanced communities. It is fully intended that affordable housing should be properly integrated into the overall development, and provided on development sites.

21.2 By negotiation and agreement, it is normally expected that, once built, the ownership of the completed affordable housing dwellings provided on site will be transferred to a Registered Social Landlord (RSL). The transfer should be subject to agreement between the developer and the RSL.

21.3 Where an RSL is not taking over the ownership of the dwellings, the Council is prepared to accept ownership of the affordable housing dwellings built at an equivalent rate/value to the contribution paid by the developer in on-site provision as if an RSL were involved. It is acknowledged that grant aid is available to both RSLs and private developers to provide affordable housing, that meets the national investment plans of the National Affordable Housing Programme (NAHP) managed by the Housing Corporation.

21.4 However, if not provided on site, in exceptional circumstances the Council and the developer may both consider and agree that it is nonetheless preferable for an alternative other contribution to be made towards the provision of an element of affordable housing - either equivalent provision on another site in the District, or the payment of an equivalent financial contribution. These alternative off-site and financial contribution arrangements are discussed below.

21.5 If a financial contribution is accepted in lieu of affordable housing on site, that cash contribution should be payable at a large enough level sufficient to facilitate and ensure that the same number and type of affordable dwellings required on the application site can be secured elsewhere (i.e. equivalent affordable housing provision).

## **22.0 Arrangements for Off-Site Provision.**

- 22.1 In exceptional circumstances affordable housing may be provided off-site but only if the Council accepts the other site as suitable. Affordable housing should normally be provided on the main application site. However, there will be very limited and special circumstances where it may be agreed that this normal on-site approach is not feasible, and that alternative off-site arrangements will therefore need to be made.
- 22.2 For instance, exceptional costs may mean that the site would yield less than one unit of affordable accommodation, and it may then be appropriate for physical provision elsewhere or a cash/financial contribution to be provided. Also, the site may be relatively remote from local services or public transport facilities. In these circumstances, the developer could provide and build affordable housing on a separate development and a separate site, or subsidise it. The developer would then need to:
- set out exactly how the two developments would be tied together,
  - establish that any cash value, or alternative scheme offered, is equivalent to the value of the affordable housing scheme which would otherwise be provided on the actual development site,
  - enter into a legal agreement to give effect to these arrangements.
- 22.3 As a further option, the Council may be able to accept the dedication of existing houses in order to fulfil the affordable housing obligation. If a Housing Association is to be a partner, it will need to be involved at a pre-application or early stage, and will need to approve the proposed arrangements.

## **23.0 Financial Contributions - In Lieu of On-Site Provision**

- 23.1 In exceptional circumstances, where the prospective developer, after discussion and agreement with the Council, cannot secure any partner able to share in the cost of the provision of the affordable housing requirement, the affordable housing obligation may be commuted to a cash sum or financial contribution.
- 23.2 In those exceptional circumstances where financial contribution is accepted, because the prevailing conditions allow only a cash contribution in lieu of affordable housing, that contribution should be payable at a large enough level sufficient to facilitate appropriate equivalent affordable housing provision (eg same number and type of dwellings) on an alternative site elsewhere. A cash contribution at least equivalent to the sum that would otherwise have been invested in the approved site must be paid to the District Council.
- 23.3 National planning policy in PPS 3 on Housing (paragraph 29) states that any off-site provision of affordable housing, or a financial contribution in lieu of on-site provision, must be of a broadly equivalent value.

23.4 As a first priority, the Council will utilise any commuted sums to work in partnership with Housing Associations to increase the number of affordable houses provided on other sites. Where this is not possible, the Council will use the cash to undertake development on its own sites, or to enable other developers to undertake development on Council owned sites. All financial contributions will be used within 10 years or returned to the original contributors.

## **Section G. Monitoring and Review**

### **24.0 Monitoring Policy Implementation**

- 24.1 The success of the Council's affordable housing planning policies will be carefully monitored. Commitments to the construction of affordable housing units, or to financial contributions, will be recorded, together with building commencement and completion.
- 24.2 The performance of Development Plan Policies supported by this Supplementary Planning Document will be carefully monitored, and consideration will be given to any alterations which may become necessary in the light of experience and performance outcomes. Any significant alterations which may be proposed to Policy, or to this Supplementary Planning Document, would be the subject of further consultations.
- 24.3 On adoption, the SPD will form part of the Local Development Framework. The success, progress and effects of implementing the SPD will be monitored each year in the Annual Monitoring Report (AMR).

## **Section H. Further Advice and Contacts**

### **25.0 Informal Advice and Contacts**

- 25.1 Spend time on preparatory work and seek informal advice from the Council's Planning Services and Housing Services Officers before submitting a proposal. In the first instance, the prospective developer should contact Council officers regarding a potential affordable housing planning application scheme. Developers are encouraged to engage in pre-application discussions with Development Control Planning Officers and/or Housing Department Policy and Strategy Officers prior to submitting a planning application for a development scheme that involves or requires the provision of affordable housing. Such schemes can, for example, be proposed developments involving a site of 5 or more dwellings (or covering 0.3ha or more site area), or if it is intended to develop two or more adjacent housing schemes and the total area equals or exceeds 5 dwellings or 0.3 hectares, and can involve mixed use schemes.
- 25.2 Pre-application discussions will enable the District Council to provide information as to the likely affordable housing contribution that will be sought from the development. Such discussions can reduce the length of time required to determine a planning application.

## **26.0 Advice on Options for Provision**

### **- Overview on What the Council Expects of Developers**

26.1 This SPD aims to assist potential developers of housing development sites in North Kesteven in formulating their proposals for the required affordable housing part of these sites. In the interests of this and clarity the Council wishes to indicate below the main basic options for delivery mechanisms, the requirements the Council would expect developers to meet, and a basic process. Most requirements have already been set out elsewhere in the SPD, Local Plan or in national policy, but are drawn together here in summary form. The aim is to set out what obligations the Council expects of the developer, and the basic delivery mechanisms options to choose from.

#### Obligations and Options

#### 26.2 The Core Requirement

*Question* – What does the local planning authority require from developers implementing Policy H5 of Local Plan, in order to secure affordable housing through the planning system?

*Answer* – At least 35% of all the dwellings in a housing development should be provided, built and completed on site as affordable housing. This should include provision for the home to remain at an affordable price for future eligible households. They should be occupied by those identified locally as in affordable housing need, and under affordable rents or affordable shared ownership provisions. In design terms the affordable housing units should be indistinguishable (tenure blind) from the market housing units, and be integrated throughout the site.

#### Basic Process

#### 26.3 (1)

The developer seeks pre-application informal advice from Council officers in planning and housing departments to ascertain the planning policy requirements. The developer formulates a housing development scheme, and accepts that at least 35% of the dwelling units should be provided as affordable housing on site, for those proposals that meet the parameters of Local Plan Policy H5. For rural exceptions sites and departure sites considered under Policy H6, the developer understands that all (100%) of the dwelling units should be provided as affordable housing on site.

#### (2)

The developer may provide all the relevant details and designs when an application is submitted; or indicate a willingness to the Council to provide the required level of affordable housing as part of a subsequently approved scheme to be submitted, agreed and approved in writing by the Council. Under the latter, agreement would be required before any of the development commences on site – which would be required by compliance with a Planning Condition on a planning permission (as in Appendix 2 condition example). A legal agreement would be required in any case, to ensure that the approved affordable housing scheme is implemented.



### Developers Options

26.4 The 2 Basic Options for a developer to choose for delivery on site that are integral to this affordable housing provision are:-

**Option One** - Select an RSL which is approved by the Local Authority, or Local Authority Provision, for the affordable housing to be built and/or managed on site. Details below.

**Option Two** - The private developer/ housebuilder provides for the affordable housing to be built and/or managed on site. Details below.

### 26.5 Option One

#### - RSL or Local Authority Provision - of Affordable Housing

##### (1) Option One (A)

*Free Serviced Plots* - Developer required to transfer serviced land (agreed plots) to the RSL of the Council's approval, or to the local authority, at nil cost.

##### (2) Option One (B)

*Completed Dwellings* - Developer required to transfer completed units (agreed plots) to the RSL of the Council's approval, or to the local authority, at nil cost.

(The Authority will normally require Option (A) in recognition of the viability issues of this form of provision at 35% of the site obligation)

### 26.6 Option Two

#### - Private Developer Provision - of Affordable Housing

##### (1)

##### Private Developer provision -

A private developer builds and completes the affordable housing on site, provided and facilitated at nil grant. A private developer, body or person owns and manages the affordable housing units based on a minimum tenure split (i.e. X social rented housing/Y intermediate housing), to be agreed first with the Council. The definitions of affordable housing to be as set out in the Local Plan and national policy in PPS3.

##### (2)

##### Requirements: for Private Developer provision of Affordable Housing, are: -

- (i) Affordable rents  
(Ref: Local Plan definitions, & SPD – Section 13 re rent setting)
- (ii) To demonstrate a cross subsidy mechanism which maximises the delivery of rented units in the tenure split between rented and shared ownership. Minimum of 50/50 rent to shared ownership split at no grant requirement.  
Intermediate housing not to exceed 50% of total number of affordable units (Ref: SPD, paragraph 17.5).  
The developer should present a scheme which addresses both tenure needs and not just the shared ownership element.

This tenure split will be subject to negotiations, which will be based upon SHMA's and local needs assessments as they become available, to ensure the tenure split is appropriate to the location at the time.

- (iii) In perpetuity.  
(Ref: Local Plan Policies H5 and H6).
- (iv) NKDC has 100% nominations rights for first lets, and minimum 50% nomination rights thereafter  
(Ref: SPD, paragraph 20.9)
- (v) NKDC must be satisfied that all homes (first and subsequent lets or sales) are rented or sold to those in need.  
(Ref: SPD, section 14.0 and paragraph 20.7)
- (vi) Homes meet prevailing current development affordable housing design standards, produced by the Housing Corporation/Homes and Communities Agency or any succeeding appropriate organisation, i.e. Code for Sustainable homes level 3, meet minimum Housing Quality Indicator (HQI) and Building for Life criteria.  
(Ref: SPD, section 19.0).

## **27.0 North Kesteven District Council Contacts**

27.1 District Council Offices, Kesteven Street, Sleaford, Lincolnshire  
NG34 7EF

Tel: 01529 414155

Email: [info@n-kesteven.gov.uk](mailto:info@n-kesteven.gov.uk)

### Planning, Economic and Cultural Services:-

Development Control – Andrew McDonough/ Phillip Rowson/  
David Bate.

Forward Planning – Michael Braithwaite/Brooke Smith

Housing Strategy Manager – Stephen Priestley

Housing Strategy and Enabling Officer –

### Housing Services:-

Head of Communities – Philip Roberts

Housing Needs Manager – Tracy Aldrich

### Legal Services: -

Head of Legal and Member Services - Michael Samson

Assistant Solicitor – John Bishop

## 28.0 Non-Council Contacts

### 28.1 Non-Council Contacts

(1) Housing Corporation:-

This is the website of the government agency that funds new affordable homes and regulates Registered Social Landlords (RSLs) in England. Look for “Design and Quality Standards”.

(2) Housing Associations/Registered Social Landlords operating in area (illustrative), including current partners (reviewable):-

Longhurst Housing Association

Nottingham Community Housing Association

New Linx Housing Trust (Eastern Shires Housing Association Group)

Places for People

Boston Mayflower Ltd & Flagship Housing Group

Lincolnshire Rural Housing Association Ltd

Acis Group Limited

### 28.2 Homebuy Agent – ‘home2you’

Home 2 You is operated by Eastern Shires Housing Association (ESHA), who have been appointed by the Housing Corporation as 'HomeBuy Agent' to provide a one stop property shop and information regarding access to low cost home and shared ownership products in Lincolnshire and Rutland. People can register their enquiry or application for low-cost home or shared ownership there.

Contact:

home2you

80 The Parade

Oadby, Leicester

LE2 5BF

Tel: 0845 845 0800

Email: [homebuy@eshagroup.co.uk](mailto:homebuy@eshagroup.co.uk)

# **Appendices**

## **Appendices Attached:**

- Appendix 1:** Local Plan Policies
- Appendix 2:** Example of North Kesteven  
Affordable Housing Planning Condition
- Appendix 3:** Use of Legal Agreements and Planning Obligations  
in North Kesteven
- Appendix 4:** Extracts from Copy of National Model Planning  
Obligation (Section 106) Agreement

**LOCAL PLAN POLICIES**

**EXTRACTS FROM ADOPTED NORTH KESTEVEN LOCAL PLAN – 21 SEPTEMBER 2007**

Adopted Affordable Housing Policies H5 and H6 & Supporting Text, from Housing Chapter of Local Plan, are set out below:

- (1) **Affordable Housing Introduction – from Adopted Local Plan**
  - (2) **Adopted Local Plan Policy H5 – Affordable Housing**
  - (3) **Adopted Local Plan Policy H6 – Affordable Housing on Rural Exceptions Sites**
- 

(1) **Introduction – from Adopted Local Plan**

“ Affordable housing

- 4.27 Over recent years, house prices and rents across much of the District have risen more rapidly than wage levels, at the same time as the stock of Council housing has diminished. These factors have combined to make it increasingly difficult for some sections of the community to afford to buy or rent homes that are adequate for their needs.
- 4.28 Policy H2 seeks the provision of a range of housing types and sizes within new housing estate developments, and the Local Plan’s provisions also allow for: the conversion of non-residential buildings to dwellings; the sub-division of existing larger dwellings to create smaller residential units; and the introduction of residential uses to existing commercial buildings (e.g. the creation of flats over shops or offices). It is considered that these types of development may contribute towards meeting the needs of those sections of the community who require a small and affordable dwelling. However, it is considered that the need for affordable housing is larger and more broadly-based than could be filled by contributions from these sources alone.
- 4.29 The two policies that follow set out two ways in which additional affordable housing can be achieved, to contribute further to meeting this need. The first policy seeks the provision of affordable housing on suitable allocated housing sites and the second allows for, in exceptional circumstances, the development of affordable housing on land that would not normally be regarded as suitable for housing development.

4.30 In both policies, “affordable housing” means housing which is accessible to people whose income does not enable them to afford to buy or rent market housing locally. It is non-market housing, provided to those whose needs are not met by the market. It includes social-rented and intermediate housing. Social-rented housing is rented housing provided by local authorities and registered social landlords and other persons or bodies, for which guideline target rents are determined through the national rent regime. Intermediate housing is housing at prices or rents above social-rent but below market prices or rents. This can include shared equity /shared ownership products and intermediate rent (i.e. rent above social-rented but below market rents). This definition excludes low cost market housing, which the Government does not consider, for planning purposes, to be affordable housing. Affordable housing secured through the planning system should include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

The Council defines Housing Need as those households who are in need of subsidised housing because the cost of appropriate housing (house prices or rents) is higher than 25% of the household’s net income.

4.31 Where a registered social landlord is to manage any affordable homes that are provided by either policy, the Council will not need to seek to control the occupancy of the homes. In other cases however, the Council will need to be certain that the homes provided will be occupied by local people who need affordable accommodation. In these circumstances, the Council will either apply a condition on any planning permission, or seek to enter into an agreement with the applicant to limit occupancy to:

- Existing local residents needing separate accommodation in the area, and those living in sub-standard accommodation or requiring accommodation more suited to their particular requirements;
- People who are employed locally and who need to be close to their work;
- People with the offer of a job locally, who cannot take up the offer because of the lack of affordable housing;
- People who are not resident locally, but who have long-standing links with the locality.

The area that will be considered ‘local’ will normally be confined to the particular parish in which the affordable housing is located, and those that surround it. In exceptional cases of need, or where opportunities for more convenient affordable housing are restricted, this geographical limit may be extended.

4.32 The Council will also seek to enter into agreements with applicants, or will attach conditions to planning permissions to ensure that affordable housing generated by either of these policies remains affordable in perpetuity. ”

## **(2) Adopted Local Plan Policy H5**

### ***“ Policy H5 – Affordable Housing***

***The Council will require the provision of 35% of dwelling units on new developments as affordable housing, where:***

***The development will create 5 or more dwellings or involves a site of 0.3 hectares or more; and***

- a. a local need for affordable housing has been identified in the Council’s Housing Needs Study or through another survey, the format and findings of which the Council has agreed; and***
- b. the site is within reasonable distance of local services and facilities and public transport services; and***
- c. the provision of affordable housing will not prejudice the economic viability of the development, or the realisation of other planning objectives which would outweigh the provision of affordable housing.***

***For the purposes of this policy, affordable housing will include dwelling units provided at below market rents or prices, either as social-rented or intermediate housing.***

***The Council may consider a lower proportion of affordable dwellings on sites where the developer can demonstrate that there are exceptional development costs which affect the viability of the development.***

***Where the affordable housing is not to be managed by a registered social landlord, planning permission will be subject to conditions or legal agreements to ensure that priority is given to local people in occupying affordable housing, and to ensure that dwellings remain available in perpetuity for those in housing need.***

Justification

4.33 Where a planning application is made for residential development in the District where a local need for affordable housing has been identified by the Council’s Housing Need Study or through another survey, the Council will negotiate with the applicant to ensure that the development makes a reasonable contribution towards meeting that need. However, it will be inappropriate to seek affordable housing on some sites, namely:

- Those below the thresholds given in the policy;
- Those that are not in reasonable proximity to jobs, shops, schools, recreational facilities, etc., or which will not offer occupants opportunities to travel to such facilities by means other than the private car;
- Those that would be uneconomic to develop if affordable housing provision was sought (because there are particular exceptional development costs associated with the development of the site); or
- Those where the provision of affordable housing would prejudice the realisation of other planning objectives that need to be given priority in the development of the site.

Where the District Council decides to pursue negotiations, the number of dwellings sought will depend upon the scale and type of the proposed development, and the requirements of the Policy.

- 4.34 The nature and extent of the need for affordable housing in the whole District has been examined by the North Kesteven Housing Needs Study. It was commissioned by the Council, published in March 2005 and adopted by the Council in March 2005. The North Kesteven Housing Needs Study surveyed and analysed the local housing market, local household income, and current supply of affordable housing. The main findings of the Housing Needs Study (a local housing needs assessment and survey in accordance with government guidance) identified the level of need for affordable housing in North Kesteven. It found that the widening gap between housing costs, particularly owner-occupation, and household income has resulted in fewer local households being able to afford housing in North Kesteven. It identified the local shortfall in affordable housing provision.
- 4.35 The Housing Needs Study 2005 Conclusions include the findings that:
- There is shortage of affordable housing - 462 new affordable housing units per annum are needed in North Kesteven for the period 2004-2014.
  - This requirement represents over 100% of the projected housing build rate. It supports any affordable housing provision target applied to site thresholds set below the current government guidance minimum threshold levels.
  - The largest shortage is for one-person affordable dwelling units for rent.
  - The majority of the need can only be met by Social Rented housing. Although a maximum of 76% of households in housing need identified could afford some sort of Intermediate Housing (based on social rented costs), only a small fraction of households in need (9%) could afford such intermediate housing at the costs they are typically available.
- 4.36 An affordable housing target of 462 new affordable dwellings per year for North Kesteven cannot easily be achieved solely through the use of the planning system, to meet the identified shortfall. The Council will not therefore currently set a numerical planning target for the provision of new affordable housing units, as set out in PPG3, Circular 6/98 and PPS3. It will, however, seek to achieve the highest number of additional affordable housing units possible on development sites, by applying a percentage requirement to all proposed developments involving new private housing across the District, that meet the Policy requirements. The Council is striving to achieve as much affordable housing provision on site as is possible.
- 4.37 The Council considers that more affordable homes are likely to be needed in North Kesteven than could be provided by public investment and by the application of this policy's provisions to allocated housing sites only. Consequently, the Council will also expect planning applications for housing on windfall sites across the District that meet the terms of this policy to make a contribution to meeting affordable housing needs.
- 4.38 The Council will generally expect provision of affordable housing to be made within the development site itself. However, there may be occasions when the Council and developer agree that, on a particular site where a requirement for



affordable housing would be appropriate, it is preferable that equivalent provision is made on another site or equivalent financial contribution should be made towards the provision of affordable housing on another site in the District. In such cases, the Council will seek to enter into an agreement with the applicant to ensure that an appropriate financial contribution is paid before the development with planning permission commences on site. ”

### **(3) Adopted Local Plan Policy H6**

#### ***“ Policy H6 – Affordable Housing on Rural Exceptions Sites***

***Planning permission will exceptionally be granted for development providing affordable housing for local people on sites within, or outside but closely related to, the curtilages of any settlement except Sleaford and North Hykeham (as shown on the Proposals Map), which would not otherwise be considered suitable for residential development, provided that:***

- 1. A local need for affordable housing has been identified in the Council’s housing needs survey or through another survey, the format and findings of which the Council has agreed;***
- 2. The need cannot reasonably be met on sites with residential planning permission or through residential allocations in this Plan;***
- 3. The development will not adversely affect the character or appearance of the area;***
- 4. The development is of a scale that is in keeping with the identified need, and the role, status and service base of the settlement; and***
- 5. The site is within a reasonable distance of local services and facilities and public transport services.***

***Unless the affordable housing is to be managed by a registered social landlord, any planning permission will be subject to conditions or agreements to ensure that local people in need of affordable homes will occupy the dwellings, and that all the benefits of low-cost provision will pass to the initial and to all subsequent occupants.***

#### Justification

- 4.39 Affordable housing needs will best be met by the means set out in policy H5 (i.e. via the dedication of parts of allocated or windfall housing developments to affordable housing). However, where provision from this source could not meet needs, it is appropriate that other methods of provision should be explored. Exceptionally, in such circumstances, the Council will consider granting planning permission for the development of affordable housing on land that would not normally be considered an appropriate location for housing development (most commonly land outside of settlement curtilages).
- 4.40 Only sites that are clearly related to an existing settlement will be acceptable, and in most cases this will mean that suitable sites will directly abut a curtilage line. However, there may be instances where, because of e.g. topography or existing tree cover, an acceptable site directly adjacent to the curtilage cannot be identified, but where a development that is some distance from the curtilage would not create a visual intrusion into the countryside and would not appear as unrelated to the settlement. All development proposals must also conform to the requirements of other relevant policies of this Plan.
- 4.41 The scale of the need for affordable housing in any individual rural settlement is likely to be limited, and thus, it is expected that proposals will generally be small in scale. However, the Council will be concerned to ensure that proposals

conform to the Plan's locational strategy and, consequently, permission will not be granted for large-scale proposals at settlements that have little in the way of a service base (jobs, schools, shops, recreational facilities) or pedestrian, cycle or public transport links to such facilities. ”

**EXAMPLE OF NORTH KESTEVEN AFFORDABLE HOUSING  
PLANNING CONDITION**

**Planning Condition Imposed on Approvals for  
Developments involving Housing provision**

**Planning Condition:**

The development shall not be begun until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the district planning authority. The affordable housing shall be provided in entirety in accordance with the approved scheme. The scheme shall include:

- i. The numbers, type and location of the site of the affordable housing provision to be made;
- ii. The timing of the construction of the affordable housing;
- iii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity or prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

**Reason for Condition:**

In order to provide on site affordable housing to accord to policy C4 of the emerging local plan and interim planning policy relating to provision of Affordable Housing.

### **USE OF LEGAL AGREEMENTS AND PLANNING OBLIGATIONS IN NORTH KESTEVEN**

(1) The Council will refer to and utilise the provisions of the national model planning obligation (section 106) agreement outlined in Appendix 4, when drawing up legal agreements and planning obligations related to affordable housing provision. See Appendix 4 of this SPD which outlines the national model.

(2) All Legal Agreements are individually drafted to reflect whatever the policy/specific decision/terms negotiated are required in each case. The Council will insert appropriate clauses relating to affordable housing provision, depending on the individual circumstances of the proposed development.

(3) Potential matters to be included in an agreement related to affordable housing provision can include:-

On site/off site provision, contributions, nomination rights, consideration for land/units to be transferred, triggers, continuing control/release on subsequent occupations, mortgagee in possession scenario, affordable housing units - specification/size and location within the site of dwellings to be provided.

(4) The general topic area of some of the *standard clauses and information* that the Council would wish to include in a legal agreement (Section 106) or planning obligation related to affordable housing development - *dependent on the circumstances of the proposed development negotiated* - are set out below:-

(i) Nomination Rights – The Council would require 100% nomination rights for the occupier(s) of the affordable housing provided as part of a development scheme, from those in affordable housing need (social rented and/or shared ownership candidates), registered on the Council's Housing Register.

(ii) Free serviced plots – That, at the minimum, the developer provides free serviced plots at nil consideration (i.e. land and utility services connections free) to the agreed affordable housing provider on a development scheme.

(iii) Design – That all social housing and intermediate housing schemes requiring Housing Corporation Social Housing Grant must be built to meet the relevant latest Housing Corporation, Homes and Communities Agency or any succeeding organisation, Standards. Schemes funded from the forthcoming National Affordable Housing Programme (NAHP) 2008-2011 must be built to meet or exceed the new Housing Corporation’s Design and Quality Standards (April 2007), which supersede their Scheme Development Standards. The performance measures which indicate compliance include the following:

(a) The achievement of the Code for Sustainable Homes Level 3 (three star) as a minimum.

(b) An assessment and reaching stated minimum achievement scores against 20 “Building for Life” criteria.

(c) An assessment and reaching stated Housing Quality Indicator unit minima scores. Developers/RSLs should be aware of the relevant HC standards that apply to development. The detailed standards can be downloaded from the Corporations website, under “Design and Quality Standards”.

### EXTRACTS FROM COPY OF NATIONAL MODEL PLANNING OBLIGATION (SECTION 106) AGREEMENT

#### (1) Extracts From National Model Agreement

Attached are Extracts of wording and suggested clauses from the government's National Model Planning Legal Agreement relating to Affordable Housing provision - see (3) over page. A government explanation of the Model agreement is first set out below – in (2).

#### (2) Government Explanation of National Model Planning Agreement Extract from Govt Web Site (DCLG - Oct 2006):

The following *Explanation* appears on the government web site (DCLG Oct 2006):-

##### “MODEL PLANNING OBLIGATION (SECTION 106) AGREEMENT

This is a model section 106 agreement, prepared by the Law Society's Planning and Environmental Law Committee, for use by all parties involved in the planning obligations process. Guidance on the use of this agreement is given in ODPM Circular 5/05: Planning Obligations, Annex B, paragraph B36, as follows:

‘ Local planning authorities are encouraged to use and publish standard heads of terms, agreements/undertakings or model clauses wherever possible in the interest of speed. A standard agreement, which local planning authorities are encouraged to use, will be included alongside the forthcoming good practice guidance. There will be specific circumstances which will require particular changes in the drafting of the agreement. It is intended that any difficult clauses or terms in the standard document should be raised by developers in the course of pre-application discussion or negotiation with the local planning authority.’

Annex A of this document also includes guidance notes on the drafting of more elaborate affordable housing provisions than those included in the agreement itself.

The model agreement is intended to be a "living" document that reflects latest good practice. The Law Society and DCLG will therefore publish revised versions of the document to reflect any such changes that are agreed from time to time.

Revisions:

This updated version (15 August 2006) includes a revised definition of "Protected tenant" in the affordable housing definitions on p15. The document was first published 1 August 2006. ”

**(3) Extracts From National Model Agreement Schedule  
Relating to Affordable Housing Provision**

**(A) Extract from National Model Agreement - containing Definitions**

“ **Affordable Housing Definitions:**  
(to be included in Clause 1)

“ <b>Affordable Housing</b> ”	subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;
“ <b>Affordable Housing Units</b> ”	that part of the Development comprising [.....] residential units [...describe mix of units...] together with [.....] car parking spaces shown on drawing numbers [drawing references]; or any one or more of them
“ <b>Chargee</b> ”	any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 <sup>1</sup> ;
“ <b>Chargee’s Duty</b> ”	the tasks and duties set out in paragraph 4.4 to the [Affordable Housing] Part of the Third Schedule
“ <b>Market Housing Units</b> ”	that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing;
“ <b>Practical Completion</b> ”	issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect;
“ <b>Protected Tenant</b> ”	any tenant who: <ul style="list-style-type: none"><li>(a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit</li><li>(b) has exercised any statutory right</li></ul>



to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

- (c) has been granted a shared ownership lease by a Registered Social Landlord (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Social Landlord) by the Registered Social Landlord in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Social Landlord all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

**“Registered Social Landlord”**

a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed). ”

**(B) Extract from National Model Agreement - containing Suggested Clauses**

**“4. Affordable Housing - Clauses**

- 4.1 No more than [.....] of Market Housing Units shall be Occupied until all of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential occupation and written notification of such has been received by the Council.
- 4.2 From the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing save that this obligation shall not be binding on:
- 4.2.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- 4.2.2 any Chargee provided that the Chargee shall have first complied with the Chargee’s Duty
- 4.2.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 4.3 No more than [...insert %...] of the Market Housing shall be Occupied until the Affordable Housing Units have been transferred to the Registered Social Landlord on terms that accord with relevant Housing Corporation funding requirements current at the date of construction of the Affordable Housing Units.<sup>i</sup>
- 4.4 the Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge shall give not less than [ ] months’ prior notice to the Council of its intention to dispose and:
- (a) in the event that the Council responds within [ ] months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its best endeavours<sup>ii</sup> to secure such transfer
- (b) if the Council does not serve its response to the notice served under paragraph 4.4(a) within the [ ] months then the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule
- (c) if the Council or any other person cannot within [ ] months of the date of service of its response under paragraph 4.4(a) secure such transfer then provided that the Chargee shall have complied with its obligations under paragraph 4.4(a) the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Third Schedule

PROVIDED THAT at all times the rights and obligations in this paragraph 4.4 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

**OR**

**Definition (to be included in Clause 1)**

"Affordable Housing Land" means the land shown edged [green] on the Plan.

- 4.1 No more than [...insert %...] of the Market Housing Units shall be Occupied until the Affordable Housing Land has been transferred to the Registered Social Landlord for nil value with the benefit of the following:<sup>iii</sup>
- 4.1.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Land;
- 4.1.2 full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Land all such services to be connected to the mains. ”

## **(C) Extract from National Model Agreement - containing Drafting Notes**

### **“Annex A: AFFORDABLE HOUSING DRAFTING NOTES**

Simple straightforward affordable housing provisions have been included in this model. In practice there are many more elaborate arrangements sought by planning authorities and developers. Examples of the issue include:-

- 1.1 A mix of dwelling types
- 1.2 Restrictions on the types of occupiers (such as key workers)
- 1.3 Nomination rights in favour of a planning authority
- 1.4 Protection for the developer if an RSL cannot be found which is willing to take the affordable housing
- 1.5 A requirement for particular tenures

Ideas and requirements in affordable housing are developing and it has to be acknowledged that generally accepted drafting has not yet emerged. The following drafting principles and observations can however be stated:-

- 1 Obligations should be drafted so as to fall within section 106 or they will not be enforceable against persons deriving title from the original covenantor and there may also be difficulties enforcing against the original covenantor.
- 2 There may be another consequence of drafting an obligation which falls outside section 106, as an unenforceable obligation may make the permission itself vulnerable to judicial review.
- 3 It should be borne in mind that obligations under section 106 last in perpetuity unless varied pursuant to section 106A or section 106B or unless drafted with some limitation.
- 4 A mix of dwelling types (e.g. two bedroom units or three bedroom units) can be achieved by an obligation requiring specified operations to be carried out over the land (section 106(1)(b)) or by a restriction on occupation unless the mix is achieved, pursuant to section 106(1)(a).
- 5 A requirement for occupation by types of occupiers can be achieved by a restriction on use by anyone other than those occupiers (section 106 (1)(a)).
- 6 A simple requirement that an RSL gives nomination rights to the local planning authority will not fall within section 106. However, a restriction on occupation other than by a person chosen pursuant to a nomination agreement in a form annexed to the agreement would fall within section 106 (1)(a).
- 7 A simple obligation that dwellings are only disposed for example by way of shared equity leases or assured tenancies will not fall within section 106. An approach linked to a restriction on occupation will fall within s.106 but in formulating any additional controls local authorities should be mindful of any genuine commercial or practical difficulties.
- 8 Mortgagees of affordable dwellings may have requirements for what is acceptable to them in order to protect their interests in securing the repayment of the loan. Restrictions on assignment which affect the value and realisability of an affordable

dwelling may reduce the availability of mortgages. Reasonable time limits for exercise of nomination rights and fallback into the open market in the case of failure to nominate are among the potential solutions

- 9 It will often be possible to overcome mortgagee objections by providing that restrictions do not apply to mortgagees in possession of individual units or sales by them. Paragraph 4.2.3 of the affordable housing section of the Third Schedule addresses this.
  - 10 Whilst it is common to exclude residential owner occupiers and lessees from some liabilities in planning agreements a rigid requirement by mortgagees (or any party to the agreement) that section 106 agreements do not apply at all to owner occupiers or lessees will undermine for example provisions restricting occupation to key workers and restrictions on occupation of more than a given number of houses pending provision of affordable housing or other facilities.
  - 11 Section 27A of the Housing Act 1996 was introduced by the Housing Act 2004. It allows the Housing Corporation to make grants to persons other than Registered Social Landlords, such as developers with the intention of widening the pool of potential providers of social housing. The regulations and arrangements for implementing these powers have (as at January 2006) not yet been made. When they are, local authorities will need to consider how to adapt the affordable housing provisions for the wider range of bodies able to provide affordable housing ”
-