

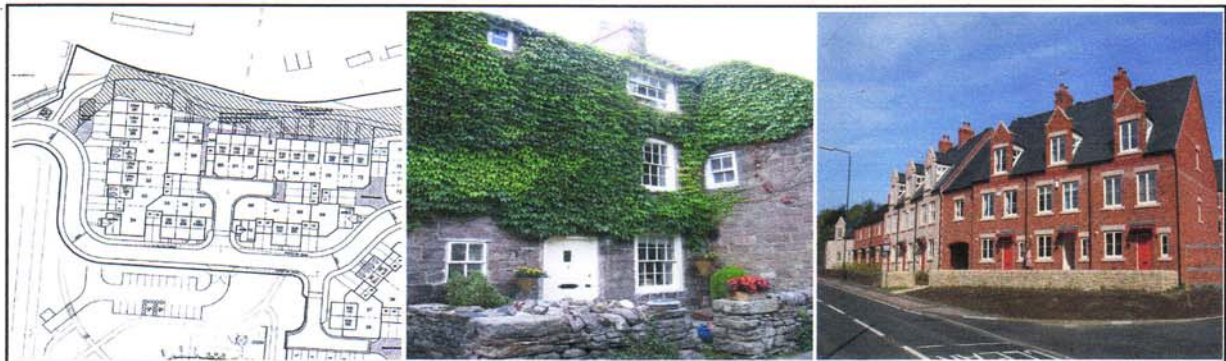
# Amber Valley Borough Council



Supplementary Planning Document

## The Provision of Affordable Housing through the Development Process

April 2007





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# 1. INTRODUCTION: AIMS AND OBJECTIVES

## The SPD Process:

1.1 Government guidance on the process for preparing Supplementary Planning Documents (SPDs) is set out in Planning Policy Statement 12: Local Development Frameworks (PPS12) and in its supporting document, Creating Local Development Frameworks. Procedural requirements are set out in the Town and Country Planning (Local Development) (England) Regulations 2004.

## Community Involvement:

1.2 There is a requirement under the 2004 Regulations to prepare and undertake



formal consultation on a draft SPD. The arrangements for consultation on draft SPDs will need to be consistent with the Borough Council's adopted Statement of Community

Involvement, which also forms part of the LDF for Amber Valley.

1.3 Any representations on a draft SPD will need to be carefully considered and the Borough Council will need to consider whether any changes need to be made to the document, before its approval and adoption.

## Sustainability Appraisal:

1.4 There is a requirement under the Planning and Compulsory Purchase Act 2004 on local planning authorities to undertake a process of sustainability appraisal. This process will need to be fully integrated with the process of preparing each local development document, including SPDs.

1.5 Sustainability appraisal will incorporate the requirements of Strategic Environmental Assessment (SEA), which is required by the EU Directive on SEA in conjunction with all plans and strategies, which have a significant impact on the environment

1.6 The purpose of sustainability appraisal is to ensure that environmental, social and economic effects of local development documents are considered. The outcome of this appraisal process includes a series of documents, including an SA Scoping Report and a formal SA Report.

## The Affordable Housing SPD:

1.7 Amber Valley Borough Council defines affordable housing as "...housing which can be accessed by households with an income that is below the median income of all households within Amber Valley...and households that fall into this category should not spend over 25% of their income on housing..."<sup>1</sup>, this explanation is in accordance within the Housing Needs Survey<sup>2</sup> and the Government definition of affordable housing that includes subsidised and non-subsidised housing to meet the housing needs of people unable to meet local housing costs.

1.8 The aim of this SPD is to supplement the policies of the adopted Amber Valley Borough Local Plan relating to affordable housing and enable the Borough Council to set out in more detail the requirements for affordable housing within development sites or mixed use sites that have a housing element and add weight to policies H10-H11 of the adopted Local Plan in the consideration of planning applications for housing development. This SPD strives to achieve the following objectives:

- provide an opportunity for the development industry and the public

<sup>1</sup> Amber Valley Housing Strategy 2005 - 2010

<sup>2</sup> Amber Valley Housing Needs Survey 2004/05

to comment on and influence the approach that the Borough Council should take in delivering affordable housing provision through the development process;

- provide a clear framework for developers and other parties so that they understand how affordable housing is to be provided within the Borough;
- facilitate a more efficient and expedient delivery of affordable housing by providing guidance to developers on the principles and procedures the council will adopt
- promote mixed and inclusive communities by encouraging varied distribution and tenures of affordable housing in new developments through the effective implementation of thresholds
- to ensure that all types of affordable housing is secured in accordance with local need

## 2. NATIONAL AND REGIONAL POLICY CONTEXT

2.1 Provision and proposals for affordable housing will need to be considered against relevant spatial planning policies and guidance at a national, regional and county level, as well as the relevant policies in the adopted Local Plan.

2.2 The provision of affordable housing has to be considered against other relevant strategies and plans to ensure consistency with the Borough Council's strategic objectives and priorities and those of its key partners to ensure that we achieve sustainable communities.

### National Guidance:

2.3 National planning policy and guidance relating to affordable housing is set out within Planning Policy Statement 1: Delivering Sustainable Communities, Planning Policy Statement 3: Housing (PPS3), and Circular 05/05 'Planning Obligations'. These documents recognise that there is a need for housing within our communities and that this should be reflected in the formulation and implementation of local policy and guidance.

2.4 Central Government requires Local Planning Authorities (LPA) to address the need for affordable housing through the formulation and implementation of policy and guidance. Where there is a demonstrable shortfall in affordable housing Government advocates that LPA's seek through the Development Plan process to secure affordable housing through the planning application process within suitable sites that offers a mix of housing types and tenures to tackle the needs of its community.

## Planning Policy Statement 3: Housing (PPS3) 2006

2.5 Planning Policy Statement 3 (PPS3) requires Local Development Plans to establish:

- the size and type of affordable housing required;
- the form of 'in kind' contribution that will be sought and where appropriate, the financial contribution that will be sought towards the provision of affordable housing elsewhere in the plan area, and
- the circumstances where the amount of affordable housing to be sought will be different from the norm, or related to different site-size thresholds, or when no affordable housing will be sought.

2.6 PPS3 states that when determining the amount of affordable housing to be sought within a site, the LPA should balance the need for affordable housing against likely development potential of the sites.

PPS3 sets the minimum site-size threshold for which affordable housing is to be sought indicatively on sites of at least 15 dwellings stating that LPA's may set a different threshold or series of thresholds where this can be justified.

PPS3 allows for LPA's to specify tenure requirements when justified by local circumstances that take into account sub-regional market assessments and the regional spatial strategy.

### **Circular 05/05 Planning Obligations**

2.7 This Circular provides guidance on the use of Planning Obligations for the implementation of planning policy including securing the provision of an element of affordable housing in residential developments or mixed use developments

where there is a component of residential uses to ensure new development contribute to the creation of sustainable communities.

### Regional Guidance:

#### **Regional Spatial Strategy for the East Midlands (RSS8)**

2.8 The Regional Spatial Strategy sets out Governments planning and transport policy for each region for a period of 15-20 years. The strategies provide a framework for informing and guiding the preparation Local Development Plans. Regional Spatial Strategy for the East Midlands (RSS) is RSS8.

2.9 RSS8 provides a broad development strategy for the East Midlands up to 2021 and has five main priorities:

- **Housing:** affordable housing on brownfield land
- **Economy and Regeneration:** policies on employment land and town centres
- **Natural and Cultural Resources:** new targets on biodiversity, waste reduction and management and flood risk
- **Regional Transport Strategy:** aims to reduce the need to travel, reduce traffic growth, improve public transport.
- **Monitoring and Review:** initial priorities of the next RSS review

2.10 The guidance and policies of particular relevance to affordable housing provision are Policy 6: Regional Priorities for Development in Rural Areas which states that development plans should make provision for local needs within rural communities for affordable housing and Policy 18: Regional Priorities for Affordable Housing. Policy 18 of RSS8 requires development plans to include policies to

seek a mix of dwellings and estimates a regional need for 3,950 affordable homes to be provided.

#### **Draft Regional Spatial Strategy for the East Midlands (RSS8)**

2.11 The adopted RSS8 has been reviewed by the East Midlands Regional Assembly and was published for public consultation on 28th September 2006, which will be followed by an Examination in Public (expected to start May 07) with adoption in early 2008. Draft RSS8 sets out the development strategy for the region up to 2026, the main considerations of Draft RSS8 are:

- Housing provision figures
- The percentage of housing to be built on previously developed land
- The sequential approach to encourage sustainable development
- Affordable housing

2.12 The main consideration of Draft RSS8 for this SPD is Policy 15: Regional Priorities for Affordable Housing which sets out interim affordable housing targets for each Housing Market Area (HMA), the Borough of Amber Valley falls within the Derby HMA that has a target to provide 33% social renting housing.

### Local Guidance

#### **Amber Valley Local Plan (2006)**

2.13 Amber Valley seeks to provide affordable housing within the Borough through the implementation of the following two policies:

### **Housing Policy H10**

The Borough Council will seek to negotiate the provision of at least 50 affordable housing units per annum up to 2011, as an element of new housing development on those sites identified in policy H1 and at Appendix 1, and on any other suitable sites of 1 hectare or more (or 25 dwellings or greater) which may come forward for development in accordance with policy H3. The proportion of affordable housing provision on individual sites will be expected to be within the range of 20-30%

2.14 The Local Plan and specifically housing policies H10 and H11 only gives the basic policy framework for delivering affordable housing and this supplementary planning document will provide further detailed advice on how these policies should be applied in practice for the effective provision of affordable housing within new development sites.

and,

### **Housing Policy H11**

Planning permission will be granted for affordable housing development on 'rural exceptions' sites, providing that:

- a) it can be demonstrated that the proposals would meet a genuine local need which would not otherwise be met by the housing market
- b) arrangements are made to ensure that the occupancy of such housing can be controlled to secure the benefits for subsequent occupiers
- c) the proposal is located within or adjoining existing villages, other small settlements or groups of houses, and satisfies all the criteria in policy H12

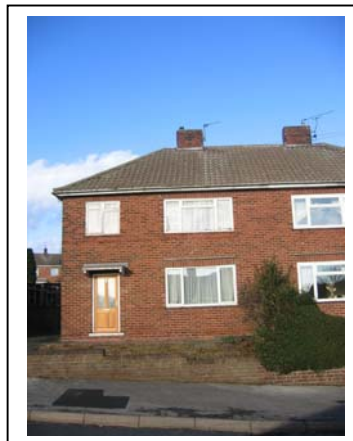


### 3. THE NEED FOR AFFORDABLE HOUSING IN AMBER VALLEY

3.1 Amber Valley's Housing Strategy 2005 – 2010 outlines the Council's plans for housing over the next 4 years and was informed by Amber Valley's Housing Need Survey. The Council's Housing Strategy proposes to capitalise on opportunities for local people to live in safe and affordable homes throughout the borough. The Housing Needs Survey examined the housing needs, aspirations and demands of the local communities across the Borough to inform both the Housing Strategy and emerging local planning policies and guidance for delivering affordable housing through negotiation and in accordance with Government guidance.

3.2 The survey acknowledged the definition of affordable housing to include both subsidised and non-subsidised housing to meet the housing needs of people unable to meet local housing costs. The survey examined the full range of tenure aspirations and needs, including owner occupation, low cost sale, market renting, low-cost home ownership and social renting.

3.4 The backlog table illustrates the unmet affordable housing need across Amber Valley. The survey concluded that



the overriding demand within the Borough is for the provision of subsidised housing. The Housing Needs Survey (2004/5) estimates that over the next 6 years the Borough faces a

shortfall of between 406 and 464 affordable homes per annum and attributes this shortfall and backlog to the following factors:

- Low Incomes - income in Amber Valley falls significantly below the national average;
- Small Supply of affordable properties on the market for sale;
- Limited choice of housing type within rural areas particularly smaller dwellings of 1 and 2 bedrooms.
- 58.35% of the Borough cannot afford to move and are in need of affordable housing.
- 49.8% of emerging households are unable to buy or rent in the open market unless they share.

3.5 The survey confirms that affordable housing is needed across all tenures within the Borough, for both urban and rural sub-areas. As part of the Housing Needs Survey an affordability assessment was carried out, the assessment showed that around 58.3% cannot afford to move elsewhere and are in need of affordable housing. The Survey concludes that the demonstrable need for affordable housing across the Borough requires the Council to include thresholds in its policies and

Backlog of unmet housing need in Amber Valley Borough (2004)		
		Estimated number of affordable housing required
URBAN	Alfreton	382
	Belper/Ripley	973
	Heanor	429
	Derby	46
RURAL	Alfreton	22
	Belper/Ripley	93
	Heanor	39
	Derby	31
	<b>BOROUGH</b>	<b>2,016</b>

guidance to ensure that affordable housing is secured, the shortfall is met and the communities affordable housing need's are provided for.

## **4. SECURING AND DELIVERING AFFORDABLE HOUSING IN AMBER VALLEY**

4.1 The ability to supply a good range of housing incorporating size, type and affordability are important considerations in providing a choice of accommodation thereby creating better place for people live. It is essential to sustain a supply of housing through the development of low cost homes for rent or sale or possibly both, the following section sets out Amber Valley's requirements for achieving this.

### **Thresholds for Affordable Housing within new development**

4.2 The following guidance for the delivery of affordable housing within the Borough builds upon policies contained in the adopted Local Plan (LP) 2006 and responds to Amber Valley's Local Development Scheme, the emerging Local Development Framework, and our obligation to comply with up to date National and Regional policies and guidance.

4.3 As stated in section 2 of this SPD the Local Plan contains Amber Valley's affordable housing requirements from new developments. Policy H10 states that the Council seeks to negotiate the provision of at least 50 affordable units per annum up to 2011 on suitable sites. Although policy states that at least 50 affordable houses are to be delivered per annum within the Borough it goes on to say that the Council will seek to negotiate a provision of 20 – 30% of affordable housing on all residential developments and mixed use schemes that have an element of residential development on sites of one hectare or more (or 25 dwellings or greater).

4.4 Since the adoption of the Local Plan, the Government has published Planning Policy Statement 3: Housing (PPS 3) which reduces the minimum site threshold from 25 dwellings (or 1 hectare) to 15 dwellings (or 0.5 hectare). The Council has applied

this guidance and now requires this provision of affordable housing through the development process.

4.5 For the Council to consider a lower percentage supply of new affordable housing than the expected 30% (i.e. down to 20%) the developer must provide clear evidence to justify the reasoning for this through a financial viability appraisal to demonstrate the developments affordable housing capacity.

### **Affordable Housing within rural areas**

4.6 Policy H11 relates to the provision of affordable housing within the rural areas of the Borough. This policy is concerned with 'rural exception sites'; rural exception sites are those sites within or adjoining an existing village that would not normally be released for development except where an exception can be demonstrated. The Local Planning Authority will only consider planning applications where it is proven that a proposal meets genuine local need and would not otherwise be met by the housing market as set out in Policies H4, H5 and H11 criteria for assessing exception sites.



4.7 It is advised that landowners and developers make contact with the local community, in particular the local parish or town council, to assess the level of local support for the release of a site 'exceptionally' for affordable housing. It is also advised that a partner Registered Social Landlord is identified at the earliest stages so that they can assist in bringing the appropriate exceptions sites forward.

4.8 All new dwellings on exception sites must be considered affordable, general market housing would not be provided as a

means of cross subsidizing the affordable housing market. Affordable Housing on exception sites should be available in perpetuity and address the local housing needs in particular. The Council will secure this through Section 106 Agreements.

### **Types and source of Affordable Housing**

4.9 The Council will seek to ensure that, where possible, all developments that are residential or have a residential element will reflect the most suitable mix of types, tenures and residents for any given scheme and will be negotiated through the planning process. The types of affordable housing considered by the Housing Needs Survey as being the most suitable to be provided across the Borough are Social rented and intermediate housing.

4.10 Social rented housing is housing that is provided for rent at below market cost for households in need. Social rented housing is generally managed by an RSL and affordable rents are set in accordance with the Housing Corporation requirements. Social rented housing ought to be accessed on the basis of housing need and be made accessible to occupiers on a long-term basis.



4.11 Intermediate housing is sub-market houses that are rented at a rate that is generally higher than social rents but below open market level rents. Intermediate housing can include shared ownership, housing for sale at discount, sub-market renting and low-cost home ownership.

4.12 The Housing Needs Survey identifies the need for a tenure mix of 90% social rented affordable housing and 10% intermediate affordable housing across the Borough and the Council in line with this recommendation will seek to provide this mix. Where it is deemed that it is not possible to provide 90% of the Affordable housing as socially rented the Council will negotiate the type and level of type as part of the planning process.

### **Securing Provision**

4.13 Affordable housing is and will continue to be delivered across the Borough by the Council and Registered Social Landlords (Housing Associations) and as part of new private market developments through planning obligations and/or conditions. There are a number of ways in which affordable housing is provided. A developer may construct affordable housing 'on' or 'off site' for a Registered Social Landlord<sup>3</sup> (RSL), or they may make land available 'on or off site' for the RSL to develop. Planning Obligations will be negotiated for all developments that provide affordable housing. The following is an indicative list of the issues that will be negotiated as part of the planning application process for formulating a S106 agreement:

- Provision of affordable housing of 30%
- Size, type and tenure of the affordable
- Design and location of affordable housing within the development site

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<sup>3</sup> RSL - Registered Social Landlord provide homes and housing services to people in housing need. There are various types of organisations, many are housing associations or housing cooperatives, some are charitable trusts and others are known as local housing companies. What all RSL's have in common are that they are non-profit making and are controlled by boards made up of unpaid volunteers. They are entirely separate and independent from the Council.

- Timing of the construction and occupation of the affordable housing in relation to the rest of the site
- Arrangements for timing of any payments associated with the transfers of affordable units and land managing bodies (this is generally the RSL), including whether the units and land are to be transferred freeholds or leaseholds
- RSL Management details
- Nomination agreements

4.14 Alternatively if agreed the developer can make a commuted payment to enable the Council to develop affordable housing off site. Developers should expect that affordable housing shall be provided 'on site' as part of the development and 'off site' provision will only be accepted where the applicant can demonstrate to the Council that there are genuine and insurmountable reasons why 'on site' provision cannot be achieved. Where 'off site' provision is agreed as an exception to on site provision, section 106 agreements will be negotiated.

4.15 Details of Section 106 Agreements (S106) will be reviewed on a quarterly basis through our Section 106 Database. Where it is felt necessary, non-compliance with the terms and conditions of the S106 will



be reported to the Planning Regulatory Committee and where relevant the Council will consider taking enforcement action to ensure that the S106 agreement are complied with.

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## **Financial Viability and Affordable Housing**

4.15 The council will expect the developer to take in to account the Council's affordable housing requirements when purchasing development sites and the costs associated with delivering affordable housing and reflect these costs in a financial viability appraisal as a basis for negotiation. Where a developer considers that the planning obligation for affordable housing significantly affects the viability of a development, the Council may review the range of any and the nature of the obligations. The developers will be expected to make available to the Council on an open book basis a substantial financial appraisal which has led to the review, and the Council may review the obligations which are being sought and seek advice from the Housing Corporation with regard to the possibility of social housing grants before considering whether or not to accept a lower quantity of affordable housing for that specific development.

## **Public Subsidy for Affordable Housing**

4.17 Where a developer can demonstrate that the provision of affordable housing is not financially viable it may be possible to apply for public subsidy funding from the Housing Corporation<sup>4</sup>. The council will support a bid to the Housing Corporation via a RSL for public funding towards the provision of affordable housing only where it is proven that without such funding affordable housing would not be provided at the level the Council requires. Please note that the Housing Corporation will not normally grant funding of affordable housing secured on market housing sites through Section 106 Agreements. It is therefore the developers' responsibility to not presume the availability of public funding when sites are being purchased.

<sup>4</sup> The Housing Corporation is a national Government agency that fund new affordable housing and regulates housing associations in England.



4.18 If a bid for public subsidy is successful, the Housing Corporation grants are made to the RSL and not to the developers themselves. The Housing Corporation Grants are not only for the development and build of affordable housing but also for the on going property management and maintenance costs to which the RSL may be liable. The RSL will pass on the grants to the developers only after subtracting the ongoing management and maintenance costs. For further information and indicative grant levels go <http://www.housingcorp.gov.uk/server/show/conWebDoc.1298>.

4.19 Where insufficient or no funding is available the Council may negotiate alternative solutions requiring less subsidy, such as a lower proportion of affordable housing provision or provision off-site or payment in lieu. These exceptions are unlikely to be acceptable unless justified by a robust financial viability appraisal.

### **Commutated Payment in Lieu of Provision**

4.20 The Council in accordance with policies will seek the provision of affordable housing on site and only under exceptional circumstances will the Council



agree a payment in lieu of on site provision. The developer will have to demonstrate that the provision of affordable housing on site is not a viable option, in the cases that a payment in lieu of affordable housing on site is acceptable a section 106 agreement will confirm the amount of contribution to be made, the timing of the payments and that the contribution will be spent on facilitating new affordable housing within the Borough.

### **Management and Long term Affordability**

4.21 The most appropriate and simplest way to ensure that affordable housing remains affordable and occupied by local people in need is for an RSL to own and manage the affordable housing (the Table in Appendix 1 is a illustrative table of transfer prices by property type to a RSL). The use of the RSLs by developers will be strongly advised by the Council

### **Design and Location of Affordable Housing within a development site**

4.22 The design and location of affordable housing within a development should be the same as market housing. It is expected that affordable housing units are evenly distributed across a development site. The separate Supplementary Planning Document titled, 'Design Guidance Note: Residential issues' should be consulted when considering design issues.

### **Pre-Planning Application Process**

4.23 Developers are strongly advised to discuss proposals for their sites with the Borough Council at an early stage so that as many issues as possible can be dealt with and resolved prior to an application being submitted. Developers should be aware that non-compliance with the Council's affordable housing requirement is a material consideration for refusal of a submitted planning application for residential development or a mixed use development that has an element of residential development over the affordable housing threshold. The Council is committed to undertaking pre-application discussions to ensure that effective engagement and negotiations can take place to enable both the Developer and Council to bring forward the optimum development. It is advised that as a part of pre-application process it is recommended that a developer engage the RSL to ensure that all arrangements for the delivery of affordable housing is agreed in principle

prior to the submission of a planning application.

## **5. MONITORING THE DELIVERY OF AFFORDABLE HOUSING WITHIN THE BOROUGH**

5.1 The monitoring of this SPD will be encompassed in the Council's Annual Monitoring Report. The following indicators will be monitored to assess the effectiveness and implementation of this SPD as a tool for delivering affordable housing through planning policy and the extent to which affordable housing through the development process meets the overall level of need:

- The number of affordable housing completions
- The number of affordable housing commitments
- The number of affordable housing completions on exceptions sites
- The number of affordable housing commitments on exceptions sites
- The proportion of housing developments that the Council has agreed a 'payment in lieu of affordable housing on site'
- The proportion of applications for development involving affordable housing that involve pre-application consultation prior to submission
- The proportion of approved and implemented planning applications that evenly distribute affordable housing across the development site.
- The extent to which the provision of affordable housing through the development process meets the overall level of need