



**REPORT TO PLANNING &  
DEVELOPMENT COMMITTEE TO  
BE HELD ON  
6 DECEMBER 2018,  
CABINET ON 11 DECEMBER 2018  
AND COUNCIL ON 7 JANUARY  
2019**

**REPORT OF DIRECTOR: (RB) – 18/265**

**SUBJECT: AFFORDABLE HOUSING SUPPLEMENTARY  
PLANNING DOCUMENT 2019 AND ADOPTION**

**RECOMMENDATION (S):** It is recommended that:

- i) Members recommend that Council adopt the revised Affordable Housing Supplementary Planning Document and that the document is thereafter used in the determination of planning applications;
- ii) Further research and consultation is carried out into the Discount Sales Market Housing product by Planning and Housing Services and further guidance on this be published as an addendum to the Affordable Housing SPD if necessary.

**REASON FOR RECOMMENDATION (S):** Since the Affordable Housing Supplementary Planning Document (SPD) was updated and adopted earlier this year the NPPF has been revised. It is important that the SPD is a dynamic document that can be updated as and when changes take place to national policy and guidance.

**HIGHLIGHTED RISKS:**

The risks associated with not taking forward the proposed alterations are that the SPD will not accord with the latest national planning guidance, may reduce the affordable numbers delivered and could be subject to challenge.

**1. INTRODUCTION**

- 1.1 The current Affordable Housing SPD was adopted in March 2018.
- 1.2 In the period since adoption, the NPPF was revised in July, changing the formal definition of affordable housing, setting out revised information on viability and the thresholds for affordable provision.

- 1.3 It is also considered necessary to amend the SPD to provide further information on the Nationally Described Space Standards. These were introduced by Government a number of years ago but are not compulsory or enforceable without further local evidence. This aspect has been raised by a small number of developers and it is considered appropriate to update the wording of the document accordingly and address the space standards in light of advice from the Council's Housing Team and Registered Providers of affordable and social housing.
- 1.3 A consultation was carried out on a revised draft SPD over September and October 2018 to which a small number of responses were received. These are appended to the report.
- 1.4 This report provides Members with a précis of the responses received, officers' response to these comments and sets out the further changes that is recommended be made to the document before adoption.

## **2. CORPORATE OBJECTIVES**

- 2.1 The Affordable Housing SPD has a significant impact on the delivery of the vision of 'a high quality life for all'. It also accords with the priority of a safe, happy, healthy population as good quality housing is a fundamental contributor towards that goal.

## **3. BACKGROUND AND ISSUES**

- 3.1 The issues for Members' consideration and attention are:

- The proposed amendments to the Affordable Housing SPD;
- The proposed adoption of the SPD.

## **4. CONSULTATION**

- 4.1 A consultation was carried out for a period of six weeks which specifically targeted Housing Developers, Registered Providers and other statutory consultees.

## **5. ASSESSMENT**

- 5.1 The Supplementary Planning Document, as amended, is appended (Appendix 1) and should be read in conjunction with this report. To highlight any changes since the consultation draft any deletions are shown as ~~strikeout~~ and additions with ***bold italics***.

### Comments Received

- 5.2 The number of comments received has been low. North Yorkshire County Council, three Registered Providers and two housing developers have responded. One of the latter of these is a substantial response and this report

will, where appropriate, go through these comments in detail. Comments are appended to this report in Appendix 2 (redacted where necessary).

### Change to Threshold for Affordable Provision

- 5.3 This is a further change to those consulted upon in the draft SPD, however, it is a statutory change enforced by specific changes to definitions set out in the National Planning Policy Framework (NPPF).
- 5.4 The Local Plan adopted in 2017 set out that the threshold for affordable provision was development involving the creation of 11 units or more. However, affordable provision would also be required on schemes on which 10 or less units were proposed but the overall floorspace exceeded 1000sq m. This was previously established by Ministerial Statement.
- 5.5 Paragraph 63 of the NPPF now states that, “Provision of affordable housing should not be sought for residential developments that are not major developments...” The NPPF Glossary goes on to define major developments as, “For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”
- 5.6 This subtle change supersedes the threshold information under Policy HC3 of the Local Plan. This will be updated in the SPD and will appear as follows:

Affordable Threshold (no of dwellings)	Housing Market Areas		
	Scarborough	Filey / Hunmanby / Southern Parishes	Whitby / Northern & Western Parishes
10+	10%	15%	30%
9 or less	No Contribution*		

\* unless the site is 0.5 hectares or more, in which case the provision will be based on the figures shown for schemes of 10 dwellings or more.

### Nationally Described Space Standards

- 5.7 The draft confirmed that whilst Nationally Described Space Standards (NDSS) were desirable the manner in which the guidance is phrased means that they are not compulsory unless referred to in a Local Plan and backed up by local evidence. Clearly this is not the case in this instance as the Local Plan was adopted in 2017 and made no reference to NDSS. This does not mean that the Council should not aspire to achieve these standards and look to ensure that new homes deliver a quality of amenity that future residents should expect in the 21<sup>st</sup> Century.
- 5.8 Furthermore, the Local Plan does have a strongly worded Design policy (DEC1). The revised document stated that under-sized room could, at the discretion of the Council, be classified as being of poor quality design and refused. This is not to say that a proposal that has a proportion of smaller homes (and room sizes) will be refused as it will, as always, be based on an individual assessment of the scheme. But the option is there.

5.9 In addition to this, the SPD does not rule out proposals whose homes have rooms below the NDSS. The SPD simply states that if the local planning authority were to accept such proposals then this must only be where other requirements are met. In failing to accord with the proposed criteria the application would be considered to be unable to meet affordable housing requirements. The draft proposed criteria are as follows:

- provide written confirmation at the time of submission of the planning application that a Registered Provider (RP) has signed up to taking possession of the finished affordable housing products; and
- have the formal agreement of the Local Housing Authority that the proposal meets local requirements including the ability of the Registered Provider (RP) to provide a demonstrable management presence. The expectation is that an RP should have a management presence. Where an RP has no local management presence, then they will need to state how they can provide such a presence, which meets with the approval of the Local Housing Authority. If no such demonstrable management presence can be provided then the local housing authority will not approve the use of that RP.

5.10 This is considered to represent a justifiable position, in that it does not seek to enforce space standards whilst providing the RP's with the opportunity to determine if what is being proposed meets their own standards and requirements. It also allows the Local Housing Authority the ability to ensure that any RP's taking on affordable homes in the area have the ability to efficiently deal with matters arising through having an appropriate and demonstrable local presence.

5.11 Some concerns have been raised to this approach by Persimmon Homes and to a lesser extent, Home Housing Association.

5.12 Persimmon has been stated that it is unlikely that an RP will be fully signed up prior to the submission of an application. Officers accept this point and a re-wording is proposed to ensure that this does not prevent housing schemes and consequently affordable housing coming forward. It is proposed to amend this first criterion to read as follows:

- provide appropriate evidence at the time of submission that demonstrates there is a realistic prospect that an RP will sign up to the affordable homes provided on the scheme. This should be in the form of expressions of interest and/or formal written offers.

5.13 A footnote to the above amendment will clarify that such written offers may be provisional (ie. Given the stage in the process, without full board approval from the RP).

5.14 On the second requirement, Persimmon Homes has again raised issues with what this is trying to achieve. The Council's Housing Officers are resolute that if Registered Providers are to operate in the Borough that they should have a

local management presence in some form. This makes absolute sense as an RP with no local presence will not be able to react to and resolve issues that can arise with their housing stock. In the opinion of officers this would not represent a good service to their tenants in the opinion of officers. To simplify the wording the term 'formal agreement' is replaced with 'support'.

5.15 Persimmon Homes considers that the SPD should make clear what evidence the Local Housing Authority will require to gain approval. They go on to state that such criteria should not stifle choice by allowing new RP's to enter the market in the area.

5.16 In light of these comments a response has been sought from the Local Housing Officer. They have stated that

*'We would not see the criteria for providing a local management presence as stifling choice and not allowing RPs' to enter the market in the area. There are currently 8 mainstream RP's and a further 3 specialist RP's developing affordable housing within the Borough. In addition, a number of other RP's have previously developed affordable housing in the Borough in the last few years.*

*In recent years, we have welcomed new RP partners into the Borough where they are able to bring new investment and are able to provide an effective local management response and we continue to have discussions with new RP partners on an on-going basis.'*

5.16 This confirms that the current system has not resulted in stifling choice in the area and has worked successfully for many years.

5.17 Home Housing has also commented on this matter. It suggests that most national housebuilders build below NDSS and that all RP's may apply these standards when negotiating with the housebuilders; it may therefore become the norm for RP's to accept such properties. Your officers consider that whilst that may be the outcome (and is likely the situation now anyway) it should not prevent the Local Planning Authority from attempting to improve the future housing stock of the Borough and aiming to deliver homes of a size that meet the Government's aspirations.

5.18 Home Housing also states that the rent achieved on, for example, a two bed property is the same no matter the size of the property - or at least it is not increased to the level the increase in size would suggest. The larger size of properties could also have an impact on Shared Ownership deposits. Again this is noted and it is unknown if this is the viewpoint of all RP's or just this respondent. As above your officers consider that it remains a valid ambition for the Local Planning Authority to provide decent well-sized homes and such deposits will remain relatively affordable as opposed to other means of ownership including Discount Sale Market Housing (referred to later in the report). Furthermore, this can be monitored and if necessary be reviewed over time and if there is an issue with rents and deposits, consideration can be given to updating local policies.

### Design and NDSS

- 5.19 This is related to the whole NDSS discussion above (Para 5.7) but is specific to comments on design and the use of the Local Plan Design Policy. A response to the consultation suggests that the SPD was too strong in that it states that, 'Dwellings that have under sized rooms should be considered as being of poor design quality and on that basis can, at the discretion of the Council, be refused consent under the general principles of Policy DEC1: Principles of Good Design.' It is proposed that the sentence be amended to state could as opposed to should. It will consequently be at the discretion of the local planning authority to assess the scheme in totality and determine if in such instances the proposed room sizes are of sufficient limitation that it does reflect poor design and warrants re-negotiation with the applicant or ultimately refusal.
- 5.20 Whilst it is not set out formally in the SPD, there may be occasions in which it would be appropriate to allow a small reduction in affordable numbers if this was to enable units that met the NDSS requirements. This could only be countenanced when viability evidence has demonstrated that this was the only means of achieving said standards. This was referred to verbally at the Planning & Development Committee of 6 September 2018. Persimmon Homes has suggested that where the size of an affordable property satisfies the RP the Borough Council should not seek larger rooms to meet NDSS standards. They contend that there is a massive need for affordable homes and this option could reduce delivery. It is, however, at the discretion of the local planning authority to assess such matters and decide if a small reduction in affordable provision in such circumstances is warranted.

### Transfer Values

- 5.21 Persimmon Homes has objected to the imposition of fixed transfer values in the SPD. It should be noted that these transfer values were set out in the previous SPD adopted in March 2018. No objections were raised on this matter at that time; including by Persimmon Homes. The transfer values are an indication of what RP's expect to work to within this Borough and is based on research of the Local Housing Authority who worked with local RP's.
- 5.22 It is therefore not proposed to make any changes to the transfer values that were established through a formal consultation process during late 2017 and early 2018. As the document states these transfer values assist in the consideration of viability appraisals and provide greater certainty and transparency for developers and Registered Providers.
- 5.23 If, outside of the planning process, the transfer values vary then that is entirely a matter for those two parties.

### Tenure Mix

- 5.24 The tenure mix was established through the most recent Strategic Housing Market Assessment. Whilst this suggested that a 60/40 split (rent / intermediate) was appropriate an eventual 70/30 split was incorporated into the Local Plan due to further advice of the Local Housing Authority that there were continuing high levels of demand for social rented housing. This was accepted and found sound at the Examination in Public (EiP).
- 5.25 The respondent from Home Group suggested there may be some ambiguity in the figure as the SHMA figure and the Local Plan figure differ. As referred to above the figure is fixed as per the Local Plan (70/30). The SHMA was one piece of evidence used in the publication of the Local Plan but ultimately a small deviation was considered and accepted by the Inspector presiding over the EiP.
- 5.26 The main implication of the recent NPPF update to require 10% of affordable provision to be in the form of affordable home ownership is the potential impact on schemes within the Scarborough Housing Market Area. As that area only has a requirement of 10% affordable housing; fully according with the new guidance would mean that no rented affordable products would be delivered in that area. For that reason the SPD stated that this requirement would not apply and the tenure split as set out in the adopted Local Plan would apply.
- 5.27 Objections to this approach were raised by Persimmon Homes. Whilst not objecting to this approach in the Scarborough area it was suggested that the provision of 10% affordable home ownership in the other areas of the Borough would not significantly affect the ability to meet affordable needs.
- 5.28 In respect of Whitby and the other areas requiring a 30% affordable contribution it is considered appropriate, if the developer so wishes, to accept the full 10% of affordable homes for sale. Such a split would result in a 66/33 split between rented and intermediate / affordable home ownership. Therefore it is considered that the existing Local Plan policy already allows for the delivery of the NPPF requirement within the areas requiring a 30% affordable requirement. It is proposed to clarify this issue within the SPD as follows:
- In areas of the 30% affordable requirement, achieving the NPPF requirement would be a realistic prospect under the current policy. The NPPF would require a 67/33 split in such locations which is not too dissimilar to the Local Plan 70/30 split.*
- 5.29 In the other areas of the Borough the requirement is 15%; therefore to follow the NPPF guidance to the letter would reverse the current split and result in a 33/67 split for rented products versus affordable home ownership. To reflect this, the following amendment is proposed to the SPD:
- In areas of the 15% affordable requirement this would result in the reversal of tenure mix to a circa 33/67 split between rented and intermediate tenures. In some instances this may not be an issue, however, the guidance of the Local Housing Authority should be sought on an individual basis to consider local*

*evidence in relation to the findings of the SHMA and more recent findings in respect of the demand for affordable products in the locality.*

### Discount Sales Market Housing

- 5.30 As part of the consultation specific questions were asked in relation to this model of affordable housing. This is a new product for the Borough and to date no such units have been delivered. There is therefore a need to understand this product, how it is delivered, how the affordability of the dwelling is retained in perpetuity and other related matters. To try and receive some feedback specific questions were asked through the consultation which included:
- How does 'Discounted Sales Market Housing' work in practice?
  - How should the discount be set?
  - What mechanisms should be used to ensure the dwelling remains affordable?
  - How should the property be valued for future re-sales and by whom?; and
  - What involvement will the Borough Council have in the process of re-sale?
- 5.31 The feedback on this affordable product was limited with two housing developers and one RP providing their thoughts on this issue.
- 5.32 The RP appears less favourable of the product stating that due to the many ways this product can be financially structured there is often a problem with lenders. Lenders are not, so far, wholly supportive of like this type of affordable product and where they will lend, deposits are usually high. This RP has sought further advice from a specialist Shared Ownership Broker to see how such a product would best be structured to make it more attractive to lenders. The response they received has been forwarded which suggests:
- Sell at a fixed % for example 75% and sell freehold, a restriction on title would require the property to always be sold at 75% of its market value;
  - As above but the 25% unsold equity is held by an RP. The buyer cannot acquire it and the RP cannot charge rent on it. The buyer owns their 75% leasehold;
  - The Council decide based on the SHMA what is affordable for the priority group and you make that the fixed price to buy in at. The % will vary depending on the value of the property. You can then either sell the freehold with a restriction on title or leasehold with an RP holding the remaining equity.
- 5.33 No matter the option the RP foresees certain pitfalls and complications with the model and suggests that lenders are not 100% content with lending on these affordable products. This is a view supported by the Council's Housing Officers who have found that fewer lenders appear able to offer mortgages for these products compared to shared ownership.

- 5.34 Early discussions have also suggested that the deposit is based on the Open Market Value which makes them less affordable due to higher deposits and lessens the amount of people who can afford them. As an example of how this could compare to a Shared Ownership property see below:
- *A dwelling is valued at £150,000;*
  - *The shared ownership model at 50% purchase and 50% rental would require a typical 10% deposit therefore £7,500;*
  - *The Discount Sale Market Housing model would require a typical 10% deposit therefore £15,000.*
- 5.35 This shows a substantial difference in potential deposits for the differing affordable products and more research is required on this subject matter to determine if this is the norm.
- 5.36 Persimmon Homes and Keepmoat have provided responses on this product and these are summarised below.
- 5.37 Persimmon Homes say that they have considerable experience and that the system works best when they (the housebuilder) sells the product directly to the purchaser. The purchaser is assessed by an appropriate body in line with eligibility criteria (it is not stated who this would/should be in Scarborough Borough). They state that a cascade mechanism should be included which allows a housebuilder to sell the homes on the open market if, after a determined period, the affordable product has not been sold. A commuted sum would then be paid to the Local Authority in lieu of the failed attempt to sell the discounted affordable home.
- 5.38 Whilst the need for a cascade mechanism is noted and would have to be included in the legal agreement, the failure to sell such properties would in the opinion of the Local Planning Authority be an important factor in the consideration of future proposals that included Discount Sale Market Housing. It is not in the interest of the Local Authority to continue to approve such affordable products if there is a history on under-delivery. Therefore, if such products are to be brought forward the delivery of such products will be kept under continual review and will impact on the consideration of future housing schemes and the affordable products proposed upon them.
- 5.39 Keepmoat has suggested that this model would work best if managed by the Local Authority or a designated Housing Provider.
- 5.40 Persimmon Homes go on to state that the discount should be set at 20% and that any deviation should be based on evidence. Different discounts may be applied to differing market conditions in the Borough. It should be noted however that the NPPF does refer to a minimum of a 20% discount.
- 5.41 To ensure such properties remain affordable in perpetuity Persimmon Homes state that applicants should enter into a S106 and that a clause requires that dwellings remain affordable in perpetuity. This can require a restriction in the form of a covenant on the register of title. This, they state, should be flexible to

allow any unsold affordable properties that end up on the open market to not be covered by the covenant. Keepmoat propose that the appointed provider or Local Authority would ensure the 20% discount is retained ensuring transactions were undertaken in line with specific criteria (eligibility and valuations). Potential restrictions would be imposed on the legal title to ensure the dwelling remains 'affordable'. They suggest that a Local Authority would manage the 'perpetuity' of the affordable property by signing off a Letter of Consent to confirm any transaction is in line with agreed criteria.

- 5.42 Keepmoat and Persimmon Homes suggest that any future valuations should be carried out by a RICS Registered Valuer, with the former suggesting that the Local Authority should manage the scheme and the criteria which should be based on local income as a percentage of local house prices at the time. Whilst it is suggested that the Local Authority should have an input there is no reference to how this function is funded.
- 5.43 There are clearly a number of outstanding issues in relation to this form of affordable product and more work is required locally to determine terms and requirements. It is proposed that this further work is taken forward immediately and jointly between the Local Housing Authority and the Planning Service. Further information will be formulated in respect of Discount for Sale Market Housing in consultation with appropriate Registered Providers and Housebuilders before being issued as a Guidance Note to provide supporting information for the Affordable Housing SPD.

#### The Means of Securing Provision

- 5.44 Persimmon Homes has raised further objections on this matter. It states that a trigger point for affordable home provision transfers at the completion of half of the market homes on the site and this requires more flexibility. When reviewing the wording in the SPD it clearly states 'normally half the market element'. This does not explicitly state that on all occasions but specifically refers to 'normally'. As such this allows flexibility to react to site specific matters that would require a different trigger point. Consequently, no changes are proposed. Furthermore, it can be confirmed that legal agreements on approved schemes have been set up on a bespoke basis and vary from scheme to scheme depending on the individual characteristics of the proposal.
- 5.45 They also state that more flexibility is required for the threshold for paying any commuted sums for affordable housing. Again your Officers do not understand this request. The current wording simply refers to 'an agreed amount of market housing'. It is not specific and therefore has sufficient flexibility to allow negotiation over the timing of any payments. No changes are proposed.

#### Affordable Housing Plans

- 5.46 Persimmon Homes suggested that information on the requirements for Affordable Housing Plans should be included in the SPD as opposed to

Paragraph 5.1 stating that guidance is available from the Council. When reviewing that paragraph it would appear it is a remnant left over when previously revising the document. The majority of the information required to be included in such plans is highlighted in the paragraphs below (Paras 5.2 and 5.3). It is therefore proposed to amend the sentence to state that and additionally that it is important to involve both planning and housing in any early discussions where a scheme is likely to involve affordable housing.

### Viability and Appraisals

#### *Financial Contributions*

- 5.47 Persimmon Homes has commented on information relating to financial contributions. It should be noted again as with the transfer values that this information has not been amended and is as adopted in the previous Affordable Housing SPD. This was not questioned at that time including by this respondent. They have stated that the calculations for providing a financial contribution should take into account the additional costs that a developer incurs as a result of having to sell additional market units (as opposed to transferring a property to an RP).
- 5.48 This, is assumed, refers to cases when an off-site contribution is accepted either at the start of the process or in situations as they had referred to in Para 5.37 whereby Discount Sale Market Housing does not sell and reverts to open market housing.
- 5.49 On the latter of these scenarios it should be noted that if a developer is proposing Discount Sale Market Housing an allowance would be allowed for marketing as unlike traditional affordable products there is not a guaranteed purchaser (the RP). Therefore to allow further costs (for example, for marketing) to the developer converting the discount sale products to market housing would, in essence, involve double counting.
- 5.50 Officers do not consider that this needs any further amendment in respect of financial contributions. There is a risk that changes would further water down any contributions for affordable housing and it is, generally at the bequest of the housebuilder, to provide a financial contribution. The housebuilder builds in substantial risk to their appraisals and a higher profit margin for market housing over affordable products. The Local Planning Authority is therefore not minded to allow any further financial off-sets that ultimately benefit the developer in respect of removing affordable provision from the site and passing the onus onto the Local Authority to find sites and provide units.

#### *Risk*

- 5.51 Persimmon Homes, as part of the above argument on contributions, also makes a statement that 'it is widely accepted that a developer's margin on an open market units should be at least 20%....' This is an area of much debate but one that the Government has provided greater clarity on through their updated NPPF and supporting Planning Practice Guidance. The updated

guidance refers to a profit margin of between 15 -20%. The SPD currently refers to 18 – 20% and it is proposed to amend it to be in line with current national guidance. As the transfer of affordable units to RP's is a guaranteed transaction in bulk the profit margin should be 6%. It is proposed that Viability Assessments will be assessed on this basis and it is unlikely that any profit margins shown to be over 20% will be accepted.

#### Review Mechanisms

- 5.52 Following further viability experience and in light of updates to the Planning Practice Guidance it is also proposed to add in information relating to the use of review mechanisms.
- 5.53 Review mechanisms are a useful tool and, as set out in Para 009 of the Planning Practice Guidance, should be used over the lifetime of a project to ensure policy compliance to achieve optimal public benefits. It goes on to state that review mechanisms are not a tool to protect the return to the developer but to strengthen the local authorities' ability so seek compliance with policies.
- 5.54 It is not proposed that review mechanisms will be used as a matter of course. Clearly when a scheme is policy compliant there will be no need to do so. However, other cases will be assessed on an individual basis to determine if a review mechanism is appropriate. Where a scheme proposes affordable housing substantially below the policy compliant level and attributes it to, for example, high abnormal costs, the Local Planning Authority may recommend approval of the scheme on the basis of a future review to capture an off-site contribution when full and exact costings are understood. Any future contribution will only be to a maximum equivalent to what the policy compliant position is and any further 'profit' would remain with the developer. Other options of 'additional profit share' between the developer and the local authority may also be considered; again to the maximum policy compliant level.

#### Viability Pre-Application Advice

- 5.55 The Local Planning Authority charges for pre-application planning advice. In some cases this can involve viability advice which is a specialist service. It was proposed through the draft SPD to introduce a charge of £250 for pre-application viability advice. This will allow an officer specialised in this subject to attend a pre-meeting and provide a report back on any viability information submitted. An objection to the introduction to this charge was raised by Persimmon Homes. They stated that as the consideration of a viability appraisal is a statutory duty as part of the consideration of a planning application the Council cannot charge for such services under the Local Government Act. It should be noted that this is only proposed for the pre-application process which is a discretionary service and therefore the Council is fully within their rights to charge for this service.

5.56 The charge is therefore proposed to be introduced. It is considered that this should be reviewed over time to ensure that the fee proposed covers the time taken to deal with the assessment of submitted viability evidence.

## **6. IMPLICATIONS**

### **(a) Policy**

6.1 Subject to the Members approval, the affordable housing policy of the Borough Council will be amended as set out in this report.

### **(b) Financial**

6.2 The Forward Planning budget takes into account the commitments and resource implications of the preparation and updating of SPD.

### **(c) Environmental Implications**

6.3 A sustainability appraisal of the draft SPD was prepared for the previous stage.

### **(d) Legal**

6.3 There are not considered be any legal implications.

### **(d) Planning Implications**

6.4 The planning implications are as described under (a) Policy.

### **(e) Communications (use of social media, consultation etc)**

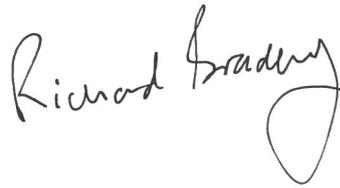
6.5 The draft document was consulted upon prior to this report drafted and included the use of social media in respect of the Planning Authorities twitter account and the Borough Council.

6.6 I have considered whether the following implications arise from this report and am satisfied that there is no identified implications will arise from this decision in relation to Staffing Implications, Crime and Disorder Implications, Health and Safety implications, Co-operation with Health Authorities, Equality implications, Human Rights Act or Environmental implications.

## **7. ACTION PLAN**

7.1 Arising for the consideration of the issues, the following action plan is proposed:

<b>Objective</b>	<b>Target</b>
A. Report considered by P&D	6 December 2018
B. Report considered by Cabinet	11 December 2018
C. Report considered/adopted by Council	7 January 2019

A handwritten signature in black ink that reads "Richard Bradley". The signature is written in a cursive style with a large, looped initial 'R' and a distinct 'B'.

Richard Bradley  
**Director**

**Author:**

Steve Wilson, Forward Planning Manager, Planning Services

Telephone No: 01723 383510

E-mail address: [steve.wilson@scarborough.gov.uk](mailto:steve.wilson@scarborough.gov.uk)

**Background Papers:**

Please give details of all publicly accessible (non private) background papers applicable to the report.

Affordable Housing SPD

I



	1					
		A	B	C	D	E
		Likelihood				

Likelihood:

A = Very Low

B = Not Likely

C = Likely

D = Very Likely

E = Almost Certain

Impact

1 = Low

2 = Minor

3 = Medium

4 = Major

5 = Disaster

## Appendix 1: Affordable Housing APD

## Appendix 2: Comments on Consultation

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### Home Housing Response

Please see below Home Group response on the AHSPD.

#### 1.5 Local Needs

Can a local housing needs survey also be used? Is there a commitment to update this regularly? How often?

#### 2.1 Types of Affordable Housing

Make sure this section is robust enough that if for e.g. discounted sale doesn't meet local needs e.g. too expensive, you are able to insist on shared ownership or aff rent. etc. instead, as appropriate to needs in the area. NPPF suggests 10% of whole site should be an affordable sale tenure, regardless of local affordable housing s106's although it can be included within them. Is this accounted for within your figures.

**Tenure split:** The SHMA prescribes 60/40 in favour of rented stock but Scarborough expect 70% rented. We believe this ambiguity/flexibility may cause problems, and should be a fixed figure either overall or for a specific site.

**Discounted Sale tenure:** There are many different ways of structuring Discounted Sale and this is part of the problem we experience with lenders. Generally this is not a product lenders like. Where they will lend deposits are usually high. We have asked a specialist Shared Ownership broker how a Discounted Sale product could be structured, in an ideal world, to be more palatable to lenders. The answer we receive would inform the responses to the questions you raise below. As we understand it the options are

- a) Sell at a fixed % for e.g. 75% and sell freehold, a restriction on title would require the property to always be sold at 75% of its market value.
- b) As above but the 25% unsold equity is held by the RP, the buyer cannot acquire it and the RP cannot charge rent on it. The buyer owns their 75% leasehold.
- c) You decide, based on your SHMA what is affordable for the priority group and you make that a fixed price to buy in at. The % will vary depending on the value of the property. You can then either sell freehold with a restriction on title or d) leasehold with RP holding the remaining equity.

There are pros and cons to both for the LA, buyer and RP, but the most important thing is to make sure it is acceptable to lenders. The fixed %'s could mean in high value areas that the product isn't actually affordable. The fixed value could mean buyers buy in at a very low % which lenders may not like. The freehold sale means developers can sell the product, whereas the leasehold option really needs an RP. Whether a % or fixed amount is used it should be tested to check it is affordable for local incomes, this may mean leaving some flexibility for regional adjustments if you have varying house price areas. This should be done in such a way as to be clear to those making offers on land what to model in their appraisal for the product. Valuations for resales should be a RICS independent valuation. Nominations for LA can be written into leases or S106s for this product if required.

This product requires an allowance for RPs fees if they are to be involved in initial sales or re-sales.

#### 4.14 Design Standards:

There are references to minimum space standards based on NDSS, Design Policy also looks to promote good design. Query how enforceable these are? Below NDSS can be accepted if an RP agrees to and in exceptional circumstances (Section 4.19) of the document -this may become the norm? All Developers will still send out their invitation for prices with smaller units and by agreeing to price and accepting preferred RP status will by proxy mean that RP's will take units below NDSS. Are you confident your RPs will stick to NDSS? Can't see Redrow/Bellway/Persimmon re-designing standard house types to make them bigger as they generally all fall below NDSS, will this mean less take up of sites by the nationals in this area whilst other areas allow floor areas below this standard, appreciate though that somebody has to go first and other LAs are out to consultation on NDSS. On space standards the cost for an RP to build at these is not balanced out by an increased rent,

generally a 2 bed rent is a 2 bed rent regardless of size. It could also mean SO properties are too expensive for first time buyers as they are usually priced on a £/sqft basis.

### **5.8 S106**

Consider at what time an RP should be involved and how the S106 could be used for this. Input into layout design etc at pre planning stage is valuable.

If using transfer prices are they indicative or fixed and how will you enforce? Will they be in the s106?

Amber Malone

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### **Beyond Housing Response**

I have had some email dialogue with John Burroughs about the following points: -

2.8 – I queried whether a relevant equity loan is classed as an affordable route - John confirmed this is word for word definition from the NPPF.

4.17 – *‘These standards should only be applied .... where the viability of the development is not compromised’* – is there a possibility that the reference to ‘only’ can be removed as it could be misconstrued.

4.19 – we fully support the proposal that the RP should have a demonstrable management presence. Thanks.

Karen.

**Karen Howard**

Portfolio Development Manager

Beyond Housing

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### **Sanctuary Homes Response**

Apologies, but Sanctuary Group haven't bid on any S106 units in the area for the last 10 years so can't really comment effectively.

Regards

Rob Harbourne

**Senior Development Manager**

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### **NYCC Response**

Thank you for consulting North Yorkshire County Council (NYCC) on the update to the Affordable Housing SPD.

Officers from our service areas have reviewed the consultation documentation and have the following comments to make:

Strategic Policy and Economic Growth

The NYCC Council Plan sets out a key priority that ‘North Yorkshire is a place with a strong economy and a commitment to sustainable growth that enables our citizens to fulfil their ambitions and aspirations’. It sets a priority for creating high quality places and increased housing provision. Therefore, we welcome the use of an SPD to assist the efficient and effective delivery of affordable housing in line with your adopted Local Plan policy.

The use of Design standards with the SPD is welcomed. The use of appropriate Design Standards is important to ensure that living conditions make a positive contribution to the health and well-being of

residents and support place making that will help to retain and attract people to live and work in the area.

It is noted that the information requirements for viability assessments (Appendix 2) includes reference to infrastructure, including education. Infrastructure such as education and highways is a necessary part of sustainable development and needs to be appropriately considered within any viability assessment. This ensures that that a balanced approach is taken in considering the viability of sites therefore, we support their inclusion in Appendix 2.

Michelle Saunders  
Senior Policy Officer  
Strategic Policy and Economic Growth

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## **Keepmoat Response**

In response to the Consultation on Affordable Housing SPD Update, Keepmoat Homes have considered your queries in regards to the proposals for Discounted Market Sale Housing and would respond as follows:

**Discounted market sales housing is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.**

Describe how you consider 'Discounted Sales Market Housing' to work in practice.

We would envisage that this model would be best managed by the Local Authority or designated Housing Provider, ensuring the 20% is retained by one single entity into perpetuity. This would ensure that transactions were undertaken in line with specific criteria ensuring purchaser eligibility, and valuations were transparent to ensure that these properties remain at a discount. The Local Authority would possibly have to impose a restriction on legal title to manage this to ensure that the dwelling remains 'affordable' and subject to eligibility criteria set out (as indicated above).

How should the discount be set?

Restriction on title that 'permitted disposals' are discounted by 20% of OMV, with either 80% transferred to the purchaser and the Local Authority maintaining the 20% interest or 100% interest transferred to purchaser with restriction on title that onward sale will be at 80% OMV, although Local Authority would manage this by signing off Letter of Consent to confirm that transaction was in line with criteria.

What mechanisms should be used to ensure the dwelling remains affordable?

As above, we would see the best possible way to control the affordability of the dwellings is to have restrictions placed upon the title with no loop holes. We would expect the local council to monitor the permitted disposal of the dwelling.

How should the property be valued for future re-sales and by whom?

Properties should be valued at Open Market Value by an appropriate RICS Registered Valuer for mortgage purposes to evidence current open market value, a framework of Valuers would be beneficial who would understand criteria.

What involvement will the Borough Council have in the process of re-sale?

Eligibility of the scheme needs to be constantly managed by an association or the Borough Council who set the eligibility criteria and guidelines. This should be done as a percentage of local income compared to the local housing prices at the current time.

I hope the above is helpful, we are supportive of this as a model and would consider this a beneficial addition to Affordable Housing tenures. Apologies that this reaches you a little late, we had some server difficulties over the weekend.

Kind regards,

Naomi Beckett  
Senior Land & Partnerships Manager

Persimmon Response



Our Ref:  
Telephone:  
Mobile:  
Email:

[Redacted contact information]

Mr. S. Wilson,  
Forward Planning Manager,  
Scarborough Borough Council,  
Town Hall,  
St. Nicholas Street,  
Scarborough,  
North Yorkshire,  
YO11 2HG.

PERSIMMON HOMES YORKSHIRE  
Persimmon House  
Fulford  
York  
North Yorkshire  
YO19 4FE  
Tel: 01904 642199  
Main Fax: 01904 656142  
Accounts Fax: 01904 613735  
Customer Care Tel: 01904 543097  
Customer Care Fax: 01904 656142  
DX 711680 Fulford  
[www.persimmonhomes.com](http://www.persimmonhomes.com)

23<sup>rd</sup> October, 2018

Dear Mr. Wilson,

**Consultation Response: Affordable Housing Supplementary Planning Document**

Thank you for inviting Persimmon Homes to comment on the Affordable Housing Supplementary Planning Document (SPD) which was published for consultation during September 2018, and which is intended to supersede the existing SPD which was adopted in March 2018.

The borough of Scarborough is covered by two of the business's regional offices and this representation is being made jointly by Persimmon Homes Yorkshire, based in York, and Persimmon Homes Teesside, based in Stockton-on-Tees.

Our comments on the proposed SPD changes, and the specific questions posed relating to discounted market sales housing are set out below. A completed copy of the Council's data protection form is enclosed with this letter. For the avoidance of doubt, I would be grateful if you would keep my details on record and write to me in relation to all future planning policy and local plan consultation events, as well as Ben Stephenson in the Teesside office.

**Discounted market sales housing**

General comments

Persimmon Homes support the Council's aim to allow the provision of discounted market sales housing to be provided as an affordable housing tenure. There is a strong demand for discounted market sales products in the borough of Scarborough which has a strong demand for housing, particularly due to rising costs in private rented accommodation, and low average incomes with median full-time gross weekly earnings of £462.90 in 2017 (Annual Survey of Earnings and Hours).

Discounted sale products allow those in need of housing to step onto the home ownership ladder with a lower deposit and smaller mortgage, which increases the number of people who are able to own their own home who would not otherwise be able to. A lower deposit enables people to access home ownership more quickly, while a smaller mortgage allows for lower repayments. This product allows access to a wide range of mortgage options.

The introduction of this tenure is strongly supported by the Government's agenda which is focused on not just increasing the delivery of housing but also focused on increasing home ownership. Paragraph 64 of the National Planning Policy Framework (NPPF) published in July 2018 outlines the Government's desire for planning policies and decisions to deliver at least 10% of the homes to be made available within any development scheme to be provided as an affordable home ownership product.

1) Describe how you consider 'Discounted Sales Market Housing' to work in practice.

Persimmon Homes has extensive experience in constructing and directly selling discounted sales market housing. In our experience, this process has worked at its best where the developer sells the discounted market sales product directly to an eligible purchaser. The purchaser is assessed by an appropriate body (for example, Help to Buy North East, Yorkshire and Humberside) and in line with any eligibility criteria established.

Persimmon Homes would wish to see cascade mechanisms included within any S.106 agreement which would allow for unsold discounted sales market housing to be sold on the open market after a period of advertising in the event that there is a shortfall of eligible persons in any particular area. In this instance a commuted sum would be paid in lieu of the provision which should be utilised by the Council to support the provision of affordable housing delivery.

2) How should the discount be set?

The discount should be set in accordance with the NPPF definition of affordable housing. Persimmon Homes considers that the discount should be set at 20%. Where the Council wishes to deviate from this position, the scale of the discount should be informed by a robust and proportionate evidence base, which should include an update to the Council's Strategic Housing Market Assessment (SHMA).

The updated SHMA should consider average incomes, average house prices and use these to set a discount in conjunction with an appropriate income multiplier. House price data should be taken from Land Registry data which is openly available.

It is important that sufficient flexibility is applied to ensure that a borough wide discount is not applied and that any discount applied is appropriate to the market area in which a development site is situated, to account for differing housing market conditions within the borough.

3) What mechanisms should be used to ensure the dwelling remains affordable?

The Affordable Housing SPD should require applicants to enter into a S.106 agreement and that such an agreement contains suitable clauses to ensure that the dwelling remains affordable in perpetuity. This can be achieved by a clause which requires that on the initial sale of a discounted sale product a restriction in the form of a covenant is entered on the proprietorship register of title.

The agreement should state that a restrictive covenant will not be required for any property which is sold at full open market value and for which a commuted sum is paid in lieu of the property being provided as a discounted sale product, such as in the circumstances mentioned above in the answer to question 1 (second paragraph).

4) How should the property be valued for future re-sales and by whom?

For the first-sale the open market value should be determined by the developer, and the value for any subsequent sales should be determined in line with Royal Institution of Chartered Surveyors (RICS) guidance 'RICS Valuation – Global Standards 2017' (known as the 'Red Book').

5) What involvement will the Borough Council have in the process of re-sale?

Persimmon Homes has no comments to make on this issue.

## **Affordable Housing SPD**

### General comments

The need for affordable housing in the borough of Scarborough is high and there is an annual need for 552 additional affordable homes over the next five years, which is higher than the Local Plan housing requirement of a minimum of 450 new homes to be delivered each year. Given the scale of affordable housing need it is very unlikely to be met and a backlog of affordable homes will build up into future years.

### Design Standards and the Nationally Described Space Standards

Our position remains as discussed with Council officers that the imposition of the NDSS can only be required if there is a local plan policy which is based on clear, proportionate and robust evidence of the local need, and where this policy has been considered as part of other evidence base documents including the whole plan viability assessment, and sustainability appraisal process.

It is considered that if a registered provider considers that any given property provides an acceptable standard of accommodation commensurate with needs then this should be taken into consideration. Registered providers have different requirements and there should be sufficient flexibility to accommodate this rather than the application of an arbitrary standard.

Persimmon Homes therefore welcomes the acknowledgement and clarification that the nationally described space standards (NDSS) are not compulsory and cannot be enforced because there is not a policy within the development plan.

While we support this clarification, it is noted that the SPD is worded in such a way that it still seeks to impose the NDSS despite the lack of a development plan policy. The SPD notes at paragraph 4.17 that:

*'These space standards are optional regulations and should only be applied when there is a Local Plan policy based on evidence and local needs and where the viability of development is not compromised. Whilst there is no bespoke space standard policy in the Local Plan there is a design policy which promotes 'good design'... Design includes scale, form and layout all of which can contribute towards the provision of adequately sized dwellings and rooms. Dwellings that have under sized rooms should be considered as being of poor design quality and on that basis can, at the discretion of the Council, be refused consent under the general principles of Policy DEC1: Principles of Good Design'.*

This paragraph seeks to apply a presumption that any property which the Council considers to be 'under sized' (i.e. below the NDSS) should automatically be considered as being of a poor design, and that this should warrant a reason for refusal. This is not a reasonable approach for the Council to take.

The SPD states that paragraph 4.19 that "The Council will seek to achieve these Nationally Described Space Standards (NDSS) on all housing developments that include a proportion of affordable housing" further stating that 'If a scheme comes forward with units that are below the NDSS they will only be supported in exceptional circumstances'.

The SPD suggests two circumstances in which a scheme with properties falling below the NDSS may be supported and these are firstly, where it is confirmed in writing at the point of submission of a planning application that a registered provider has signed up to taking possession of the finished affordable housing products and, secondly, that the applicant has the formal agreement of the Council that the proposal meets local requirements including the ability of the registered provider to provide a demonstrable management presence including evidence of how a registered provider can provide a management presence where they do not currently have one.

Taking the first of these, it is not feasible to expect that registered provider will be 'signed up' to take homes prior to the submission of a planning application. Registered providers will typically only seek board approval for acquisitions once a planning permission has been granted because at this stage there is certainty of the number, tenure and type of products available. Expressions of interest or formal written offers (without board approval) can be sought prior to the granting of planning permission.

On the second point, it should be clear that the 'local requirements' are clearly evidenced by the local authority, and clarified that where the approval of the Council is required that the authority should act reasonably. It is unclear from the SPD as drafted what evidence will be necessary to gain the approval of the authority to a registered provider which does not currently have a management presence in the borough. This should be set out clearly so that the process is clear and transparent.

Any criteria set by the Council should not seek to stifle choice, which could result in unintended consequences such as limiting the delivery of affordable housing by not allowing new registered providers to enter the market in the area.

In light of the above, Persimmon Homes strongly objects to the inclusion of the wording of paragraphs 4.15 and 4.19 and considers that they should be removed from the SPD.

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) outline the types of policies which should be contained in local development documents at Regulation 5, and Regulation 6 clarifies that any document of a description in Regulation 5 is a local plan. The imposition of a NDSS policy would be covered by Regulation 5 in so far as it is a policy for the development and use of land and a development management policy.

Should the Council wish to impose the NDSS, the Council should review its development plan and ensure that the guidance on planning policies for imposing optional technical standards on housing is correctly followed and that the approach is justified.

The NPPF clearly states that 'Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified'<sup>1</sup>. Paragraph 130 of the NPPF also reminds readers that 'where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development'. Given the lack of a development plan policy, there is not clear expectation that the NDSS will be met.

The National Planning Practice Guidance (NPPG) provides further advice for plan-makers. This includes that local planning authorities have the option to apply the standards if they have evidence 'to determine there is a need for additional standards in their area' and through 'setting appropriate policies in their Local Plans'.<sup>2</sup> It further notes that local planning authorities should consider the impact of using these standards as part of their Local Plan viability assessment<sup>3</sup>, and that where local planning authorities require an internal space standard they only do so by reference in their Local Plan to the NDSS<sup>4</sup>. The guidance provides an overview of the justification required to ensure that the impacts of adopting space standards can be properly assessed which includes evidence of need, viability and timing<sup>5</sup>.

While not mentioned explicitly in the SPD, the report of officers to the meeting of the Planning and Development Committee held on 6<sup>th</sup> September 2018 states (at paragraph 5.9) that 'a small reduction in the percentage of affordable provision would likely to be accepted if this was to achieve better sized properties' where 'providing dwellings of a size to meet the NDSS means that the viability of a scheme is compromised'.

Given the scale of affordable housing need in the borough (mentioned in general comments above), it is contended that properties of a size which satisfy the requirements of registered providers should be considered acceptable by Scarborough Borough Council officers, and that design grounds should not be used to seek larger units to meet NDSS standards which could threaten scheme viability and result in the delivery of fewer affordable homes than would otherwise have been the case.

#### Financial Contributions

SPD Paragraph 4.8 states that where a commuted sum is required this is to be calculated as the difference between the value of market housing on the site and the transfer value of affordable units. However, this approach does not take into account the additional costs that a developer incurs in selling a property on the open market when it cannot be delivered as an affordable home.

<sup>1</sup> Footnote 46 linked to Paragraph 127(f) of the National Planning Policy Framework (p.39)

<sup>2</sup> Paragraph: 002, Reference ID: 56-002-20160519, Revision date: 19 05 2016, NPPG.

<sup>3</sup> Paragraph: 003, Reference ID: 56-003-20150327, Revision date: 27 03 2015, NPPG.

<sup>4</sup> Paragraph 018, Reference ID: 56-018-20150327, Revision date: 27 03 2015, NPPG.

<sup>5</sup> Paragraph 020, Reference ID: 56-020-20150327, Revision date: 27 03 2015, NPPG.

Once an affordable unit is to be sold on the open market, the financial risk and costs for the developer increase significantly and this needs to be reflected in the calculation of any commuted sum so the developer is not any worse off than if they are transferred to a Registered Provider.

Taking risk, it is widely accepted that the developer's margin on an open market unit should be higher (at least 20%) than on an affordable unit being transferred to a Registered Provider (at least 6%). This is because a transfer to a registered provider will involve a large number of units in one transaction and provides a number of guaranteed sales that the open market cannot. Once those units have to be sold on the open market, the risk to the developer increases and it does so in two ways. Firstly, each of the units is required to be sold to an individual buyer rather than in bulk as part of a single transaction. Secondly, the number of units coming on to the open market is increasing and creating greater competition for the same number of buyers. In effect, the developer is competing with themselves. These open market risks are less likely to exist when the units are sold to an RP and need to be reflected in an open market margin on the affordable housing commuted sum.

Further, when units are sold on the open market, there can be an additional cost burden on the developer associated with selling the units. As noted above, the number of open market units increases but the number of buyers in the market does not. This could mean the length of time taken to sell the units increases which in turn increases overheads (for example, overheads and marketing costs) which also need to be accounted for. In addition open market sales are often subject to sales incentives (such as curtains, carpets, white goods or turf) or sales extras (where the purchaser will purchase certain items as part of the transaction). These items do not contribute to the open market value of the property and should be allowed to be netted of the calculation of the open market value in any formula for calculating a commuted sum.

In short, whilst a mechanism for a contribution via a commuted sum is supported, in its current form it does not take account of the risks and costs imposed on a developer should they be forced to sell the units on the open market.

Persimmon Homes consider that the commuted sum calculation should take account of all proper costs incurred by a developer in selling a property on the open market and that these should be deducted from the commuted sum payable.

#### Transfer Values

Paragraphs 4.9 to 4.13 of the SPD outline fixed transfer values for the transfer of units which act as maximum transfer values by capping the amount for which an affordable home can be sold to a registered provider.

Persimmon Homes strongly object to this approach. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) outline the types of policies which should be contained in local development documents at Regulation 5, and Regulation 6 clarifies that any document of a description in Regulation 5 is a local plan. The imposition of transfer values policy would be covered by Regulation 5 in so far as it is a policy for the development and use of land and a development management policy.

The imposition of maximum transfer values cannot therefore be properly effected via a policy contained within a SPD.

#### Tenure Mix

The SPD makes reference to Paragraph 64 of the NPPF which requires planning policies and decisions to expect at least 10% of homes to be made available within development schemes for affordable home ownership, unless this exceeds the level of affordable housing required in an area.

Persimmon Homes strongly supports this approach. It is noted that the SPD and committee report both reference that requiring 10% of homes for affordable home ownership would result in no affordable rented products being delivered in Scarborough where the overall affordable housing requirement is 10%.

However, neither the report nor the SPD consider the impact of this national policy on the other housing market areas in the borough, both of which have higher affordable housing requirements than 10% (at 15% for Filey, Hunmanby and the Southern Parishes and 30% for Whitby and the Northern and Western Parishes) and which would still enable other tenures to be provided alongside affordable home ownership products in these areas.

Persimmon Homes does not consider that the impact of requiring 10% affordable home ownership products in the Filey, Hunmanby and Southern Parishes housing market area or the Whitby and Northern and Western Parishes market area would significantly prejudice the ability to meet the identified affordable housing needs in the borough.

#### Economics of Provision

Persimmon Homes considers that the reference in paragraph 4.23 which requires agreement from a registered provider regarding the sale of affordable homes prior to the submission of a planning application should either be clarified to state that this can be an expression of interest or formal written offer (without board approval), or the requirement removed from the SPD should these not be sufficient.

#### Affordable Housing Plans

Paragraph 5.1 notes that guidance on preparing an Affordable Housing Plan is available from the Council. This guidance should be incorporated into this SPD so that it is clear, transparent and provides sufficient clarity to developers about the requirements. Persimmon Homes would welcome the opportunity to comment further on this guidance. It is also considered that the reference in paragraph 5.2 should be amended in line with the comments made above under 'Economics of Provision'.

#### Involving a Registered Provider

The statements at paragraph 5.5 regarding the Council providing developers with a list of registered providers with a local management presence and that the Council would prefer developers to choose a registered provider with an existing concentration of units in the borough should be re-considered.

As stated above, it is of concern that this could stifle choice in the market and make it harder for new providers to enter into the area. As a developer, Persimmon Homes would wish to market affordable homes as widely as possible to a range of registered providers, and having a larger pool of providers increases the chances of securing an offer. Paragraph 5.6 should also be amended in light of our earlier comments.

#### The Means of Securing Provision

Paragraph 5.9 refers to transferring affordable homes to a registered provider at an agreed cost. Please see our comments above regarding the transfer values.

It also references a trigger point at which affordable homes should be transferred to a registered provider, with this stated as being at the completion of half of the market homes on a site. This paragraph needs to incorporate sufficient flexibility to enable triggers to be agreed between the Council and developers on a site by site basis.

This is necessary to take account of the nature and scale of the site, the distribution of affordable homes within the site, and should be informed by a developers build route and cash flow considerations. In particular, with larger schemes including strategic urban extensions there will be a need to agree a series of trigger points which reflect the intended phasing of the development.

Flexibility is also needed to determine an appropriate trigger for the payment of any commuted sum and it is requested that paragraph 5.11 is amended to reflect this.

#### Viability and the Assessment Process

The aims of the Council here are understood however it is necessary to point out that while developers seek to establish all abnormal costs at an early stage to inform bids for sites, it is not always possible to accurately account for all development costs.

Equally, when bids for schemes are made this is more often than not undertaken prior to the pre-application process with the Council and therefore layout changes requested during the planning process (either prior to or after submission) can have an impact on abnormal costs such as piling and retaining walls for example where the layout of plots is altered. This should be recognised in the SPD.

#### Appendix 2 Information Requirements for Viability Appraisal

The developer margin is proposed to be 18-20% on market housing and 6% on affordable housing. Persimmon Homes considered 20% to be the figure within this range which should be removed. It is unclear from the SPD on what basis a lower margin than 20% may be applied to a scheme and the SPD does not set out a clear and transparent method for establishing the margin. It is requested that this is altered to 20%.

#### Viability Assessment Charge

It is noted that the SPD references a £250.00 charge for the consideration of a viability assessment. We request clarification on the rationale for this. Legislation allows for local authorities to charge for discretionary services (S.93 of the Local Government Act 2003), however, it is a statutory duty of the local planning authority to administer the planning application process. Considering a viability assessment as part of the consideration of a planning application is part of that statutory duty and not a discretionary service.

I trust that our comments will be taken into account by officers. Given the nature and strength of our objection to parts of the SPD, Persimmon Homes would welcome the opportunity to discuss these matters further with officers at the Council.

Should you wish to discuss the above or if you require further information please do not hesitate to contact me.

Yours sincerely,



Craig Woolmer MRTPI  
Planning Manager  
Persimmon Homes Yorkshire

cc: Ben Stephenson, Persimmon Homes Teesside