

# **Report of Consultation**

## **Supplementary Planning Guidance:**

### **Affordable Housing**

**April 2014**

#### **1. Introduction**

- 1.1 This report sets out the consultation that was undertaken on the draft Supplementary Planning Guidance (SPG): Affordable Housing, including a summary of the responses received and how they have been taken into account by the Council.
- 1.2 The Council consulted the general public on the draft SPG for a period of 10 weeks between 2<sup>nd</sup> December 2013 and 10<sup>th</sup> February 2014. The consultation included public notices in local papers, press releases, and a letter to all people on the Local Development Plan database, including (but not limited to): City, Town and Community Council; Councillors; Assembly members; Members of Parliament; adjacent local authorities and the general public informing them of the consultation and telling them how to respond. Copies of the document were made available on the Denbighshire County council website, in public libraries and Council One Stop Shops.

#### **2. Responses received**

- 2.1 Six individuals and organisations responded to the consultation, including Resolve106 (on behalf of Anwyl Construction), Campaign for the Protection of Rural Wales, Clwydian Range & Dee Valley AONB Joint Advisory Committee, and the Home Builders Federation. Responses to the public consultation raised the following issues:
  - Overall support for the document
  - Question the validity of the SPG production and consultation process, and suggest the SPG is withdrawn
  - The SPG doesn't provide a realistic framework for the delivery of affordable housing
  - The SPG goes beyond it's remit by introducing new policy in several respects
  - Various detailed comments on matters of clarification, calculation of financial contributions and affordable property values.
- 2.2 A summary of the consultation responses are included at the end of this report in Table A.

### **3. Changes proposed**

- 3.1 As a result of the consultation responses received, it is proposed to make a small number of minor amendments for factual or clarification purposes, as indicated in Table A.
- 3.2 Officers also propose several additional minor amendments to the SPG – these are included in this report in Table B. These are mainly factual or editing changes, or to provide additional clarification. Two additional changes are proposed:
  - Amending the method of calculating the affordable property value
  - Including a definition for ‘key workers’.

**TABLE A: Consultation responses**

<b>Representor</b>	<b>Organisation</b>	<b>Comment (summary)</b>	<b>Council's response</b>	<b>Changes proposed</b>
<b>Cllr Barbara Smith</b>	Denbighshire County Council	Clarification required regarding whether prospective purchasers in hamlets need to be on the affordable housing register.	Occupiers for affordable housing under the LDP 'hamlets' policy (policy BSC 6) do not need to be registered on the affordable housing waiting list. Clarification can be provided in the final SPG.	Additional wording will be included in paragraph 5.3 to provide clarification.
<b>Tony Hughes</b>	Clwydian Range & Dee Valley AONB Joint Advisory Committee	Support the LA's ambition to secure and deliver affordable housing through the LDP and SPG.	Comments noted and support welcomed.	No change proposed.
<b>Karen Beattie</b>	Denbighshire County Council	There is a requirement that RSLs ensure a % of affordable homes are built to Lifetime Homes standard – should there be reference to this in the SPG?	Grant funded properties provided through the RSLs are built to lifetime homes standards. A change in building regulations would be needed for this standard to apply to all new homes built.	Additional wording will be included in paragraph 6.2
<b>MW Moriarty</b>	Campaign for the Protection of Rural Wales (CPRW)	Consider the SPG contents to be comprehensive and adequate, and do not submit any recommendations for amendments.	Comments noted and support welcomed.	No change proposed.
<b>Neil Tatton</b>	Resolve106 (on behalf of Anwyl Construction)	It is considered that the consultation process has failed to include key stakeholders as required by national guidance and the Council's Development	National guidance (LDP Wales (2005)) requires that SPG be produced in line with the Council's Community Involvement	No change proposed.

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		<p>Agreement. The consultation draft SPG should be withdrawn and consultation undertaken with key stakeholders in construction and housebuilding before a further draft is prepared for consultation.</p>	<p>Scheme, and that interested parties should be consulted and their views taken into account before the SPG is finalised. The Denbighshire LDP CIS states that involvement 'will vary according to the content of each SPG. Stakeholder groups will be set up where necessary (i.e. on site specific development briefs)'. The draft SPG was informed by discussions with Housing Services, local Registered Social Landlords, the Planning &amp; Public Protection Service's Developer Forum and the LDP Members Steering Group before being approved by Planning Committee for an 8 week public consultation. All developers and planning agents were informed by letter/email of the consultation arrangements, prior to the 8 week period. The Council therefore considers that the</p>	

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			requirements of both national guidance and the CIS have been met.	
		The scope of the SPG as 'broad guidance' does not correspond with the justification text to LDP policy BSC 4 which refers to 'detailed guidance' being provided through publication of SPG	Comment noted.	Amended wording to be included in paragraph 1.1.
		The draft SPG fails to mention the extent of housing need identified in the County and does not provide a supportive framework to encourage delivery of affordable housing whilst being realistic in respect of private developers resources.	The draft SPG is intended to support the relevant LDP policies, and the extent of housing need in the County has been referred to in the LDP. The Council considers there is no need to repeat this in the draft SPG. The draft SPG provides additional detail to support LDP policy BSC 4, which was extensively debated through the LDP Examination process. The affordable housing requirements were revised through the examination process to reflect development viability and were generally agreed by representatives of the	No change proposed.

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			housebuilding industry. There Council therefore considers that the draft SPG does provide a realistic framework in support of the delivery of affordable housing.	
		The draft SPG seeks to apply the targets and thresholds in policy BSC 4 in an inflexible manner, rather than informing the process of negotiation. It also does not make clear the circumstances in which the economic viability of a proposed development will be taken into account.	Policy BSC 4 includes reference to negotiation and the recognition of differing characteristics throughout the County in determining affordable housing provision. Paragraph 6.2 of TAN 2 states that SPG can provide detailed information on how the policies on affordable housing will be delivered in practice. Paragraph 4.6 of the draft SPG states that it is a matter for the developer to provide sufficient justification where the delivery of affordable housing is not considered possible.	No change proposed.
		There is potential conflict between the 2 <sup>nd</sup> and 4 <sup>th</sup> bullet points in paragraph 4.7. The required standards for	It is not the intention of the draft SPG to require market housing to be built to the same design requirements	Amended wording to be included for clarification in paragraph 4.7.

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		affordable housing should not impose a requirement for market housing to follow suit and the wording in the draft SPG should be amended.	as affordable housing.	
		The draft SPG is seeking to introduce a new policy through requiring a combination of on-site units and financial contributions on developments of 10+. Only on-site provision should be required and rounded to the nearest whole number of dwellings.	This combination of provision would apply where the minimum 10% contribution would result in a 'fraction' of an affordable house being required, which clearly cannot be provided on site. Paragraph 4.13 of the draft SPG states that developers have the option to provide an additional affordable unit on-site instead of the financial contribution element, if they so wish.	No change proposed.
		The bases for financial contributions in Appendix 2 are of such fundamental importance as to be included in the main body of the document.	It is considered that the containing the calculations in a single appendix assists with the ease of reading of the draft SPG. The appendices to the draft SPG carry no less weight than the main body of the document.	No change proposed.
		In the event of a financial contribution being made, this	The financial contribution in question is intended to be in	No change proposed.

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		<p>should equate to the subsidy as would have been provided by the developer (through a reduction in land value), and not the full cost of providing affordable housing elsewhere (including land acquisition) as stated in the draft SPG. This is contrary to CIL Regulation 122 as not being fairly and reasonable related in scale and kind to the development.</p>	<p>lieu of on-site affordable housing provision. It is therefore considered appropriate that this be equivalent to providing the required affordable units elsewhere. It is unclear how this would be contrary to CIL Regulation 122.</p>	
		<p>The calculations in Appendix 2 are inequitable and contrary to CIL Regulation 122. The proposed methodology is inconsistent in its treatment of sites above or below the 10 dwelling threshold for on-site provision.</p>	<p>There are two forms of calculation in Appendix 2 which relate to financial contributions – one (a)) is a 'commuted sum' to be paid in lieu of on-site provision, where there are exceptional circumstances to justify this. The use of this approach will be exceptional and therefore not the 'normal' approach to be applied. The other calculation (b) &amp; c)) relates to all other circumstances where the payment of a financial contribution has already been agreed (through the LDP policy/SPG) as the</p>	<p>No change proposed.</p>

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			<p>approach to provision in those instances. It is unclear how this would be contrary to CIL Regulation 122.</p>	
		<p>RSL schemes funded by Welsh Government are eligible for Social Housing Grant typically at 58% of ACG costs. Therefore, the maximum contribution in lieu of on-site provision would logically equate to 58% of ACG.</p>	<p>This only applies to homes funded rather than all types of affordable housing so should not be used. Grant Funding for properties has decreased significantly in recent years.</p>	<p>No change proposed.</p>
		<p>There may be instances where ACG costs are higher than the actual cost of on-site provision or the market value of equivalent dwellings. Seeking contributions based on ACG is therefore disproportionate and negotiations on a financial contribution should use the lower of ACG or market value as a starting point.</p>	<p>The ACG provide a recommended level of costs provided by the Welsh Government. This are regularly updated by Welsh Government and provide the most appropriate available mechanism for calculation.</p>	<p>No change proposed.</p>
		<p>There is no justification for a different basis of calculation in respect of sites between 3 and 9 dwellings. Contributions based on BCIS development costs were not investigated as part of the 2009 viability study.</p>	<p>The draft SPG uses the same basis of calculation for all financial contributions, with the exception of payments in lieu of on-site provision (which will be agreed only in exceptional</p>	<p>No change proposed.</p>

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		Sites above and below the 10 dwelling threshold should be treated consistently and based on the notional cost of provision being made on-site.	circumstances – please refer to previous comments). The 2009 viability study considered the overall approach to affordable housing viability in the County and informed the policies in the LDP. It was not intended to address matters of detail. BCIS is an established and recognised source of data derived from actual developments and is considered to be an appropriate basis for calculating financial contributions.	
		Regard needs to be had to additional costs arising from market dwellings eg sales and marketing, overheads when negotiating a financial contribution in lieu of on-site provision.	These would normally be considered as part of any site appraisal.	No change proposed.
		Requiring an 'overage' clause to capture improved values following the grant of planning permission is an attempt to introduce new policy without applying due process. This is not referred to in policy BSC 4,	The LDP policy is to provide a minimum of 10% affordable housing and an 'overage' clause would only take effect where i) the policy requirement was not being met originally or ii)	No change proposed.

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		would be in breach of CIL Regulation 122 and should be removed from the draft SPG.	where house prices have escalated in line with the criteria in policy BSC 4. This is not a new policy, but is a mechanism to meet the policy requirements.	
		Example (d) in Appendix 2 is an inflexible approach to calculating a financial contribution in lieu of on-site provision of intermediate tenure dwellings. It's not clear within the draft SPG whether this same approach is to apply to intermediate tenure dwellings on-site – clarification is required.	Calculation d) relates to the affordable value of dwellings, and not financial contributions in lieu of affordable units. It is considered this sets out a clear method of calculation. The preference is for rented properties given the large housing need in the County and thus is justified.	Amended title to be included for calculation d) (Appendix 2).
		The approach in example (d) is not justified having regard to Government guidance in respect of calculating the potential of the market for intermediate housing.	Various methods of calculation have been investigated and the method in calculation d) is considered the most appropriate mechanism available to the Council. Full account has been taken of the data sources available to the Council across the County and need for the affordable price to be reasonable for applicants and builders. It is proposed	Multiplier amended from 3.5 to 3.3 x median income throughout the SPG.

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			to reduce the income multiplier to reflect this and to ensure consistency with the Denbighshire Housing Need, Demand & Affordability study recently undertaken by Glyndwr University.	
		Use of CACI Paycheck Lifestage Directory, rather than median household incomes, would help identify the income of those most in need of LCHO products. Alternatively, ACG maximum purchase limits for DIY Low Cost Home Ownership could be used to derive maximum sales values from which a 30% reduction can be made to establish a shared equity sales price.	Please refer to the previous comment. Applying a 30% discount would not necessarily guarantee an 'affordable' property as market values can be high in certain locations. Use of the median income data set ensures all the prices are calculated consistently across the County.	No change proposed.
		The benefit of shared equity schemes in reducing purchasers deposit requirement needs to be acknowledged in any affordability assessment for LCHO dwellings.	Comment noted.	Additional wording to be included in paragraph 6.1.
		The DIY LCHO tables establishes maximum purchase prices by household	These tables are only applicable for the Homebuy scheme involving purchase	No change proposed.

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		type and composition, it would be feasible to reverse this to establish maximum prices based on the ability of the dwelling to calculate a particular household size.	on the open market of an existing property. There would be affordability issues given that a subsidy of 30-50% is not available for new build homes. Homebuy owners do not have to pay rent on the 30-50% equity owned by an RSL or Council.	
		It is not clear whether the intention to withdraw permitted development rights (paragraph 4.16) will apply to all existing affordable dwellings or only those granted permission under policy BSC 4.	This will apply only to affordable dwellings granted permission under the affordable housing policies in the LDP. It will not apply to existing affordable dwellings.	Additional wording to be included in paragraph 6.2 for clarification.
		It is illogical to withdraw permitted development rights as this will prevent changing household needs being resolved in-situ, thereby requiring a move, which is dependent upon the availability of more suitable affordable housing. It may also result in intermediate tenure dwellings for sales not being favoured by mortgage lenders and then becoming unsellable.	The removal of permitted development rights for extensions does not prevent households from extending their homes. This would still be possible, with the only difference being a requirement for planning permission to be granted before any development could commence.	No change proposed.
<b>Richard Price</b>	Home Builders	Support the comments made	Comment noted. Please	Please refer to

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	Federation	by Anwyl Construction.	refer to comments relating to Anwyl Construction.	comments relating to Anwyl Construction.

**TABLE B: Other proposed changes**

<b>Paragraph</b>	<b>Change proposed</b>	<b>Justification</b>
2.1	Delete reference to 'Planning' in 'Local Planning Authority' and 'LPA'	To improve ease of reading and consistency of terms throughout
2.2	Replace 'November 2012' with 'February 2014'	To reflect the latest edition of Planning Policy Wales (PPW) published
3.1	Replace 'private rented housing' with 'intermediate'	To ensure consistency of terminology throughout the SPG
4.1	Include cross-reference to paragraph 4.1	To highlight policy requirements and improve cross-referencing within the SPG
4.14	Insert 'planning' in the first bullet point	To provide clarification
5.3	Include reference to the housing waiting list	To provide clarification and consistency with LDP policy BSC 6
5.3	Include reference to need for accommodation	To provide clarification and consistency with Denbighshire's Local Connections Policy
7	Amend team names	To reflect changes in the Planning & Public Service structure
<b>Appendix 2: calculation d)</b>	Replace table with:	
	<b>Type of dwelling</b>	<b>Maximum price as a % of the affordable value</b>
	1 bedroom	80%
	2 bedroom	90%
	3 bedroom	100%
	4 bedroom	110%
	To reflect changes in house prices and to include reference to 4 bedroom affordable properties.	
<b>Appendix 3: paragraph 2.5</b>	Include definition of 'key worker'	To provide clarification and consistency in applying the Denbighshire Local Connections Policy.  There is no 'standard' definition of what constitutes a key worker. The definition included in the SPG is based on guidance used by other Local Authorities in North Wales.