



**West Devon
Borough
Council**

AFFORDABLE HOUSING CODE OF PRACTICE

A Supplementary Planning Document of the West
Devon Borough Council Local Development
Framework

March 2012

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1. PURPOSE

- 1.1** The purpose of this Code of Practice is to provide more information on how the policies in the Core Strategy are applied. In particular, it seeks to reduce uncertainty and delay, ensure a consistent approach and provide clear guidance for developers on the requirements to be met in providing affordable housing in West Devon.

2. POLICY CONTEXT

2.1 General

- Draft National Planning Policy Framework
- Planning Policy Statement 3
- 2010 Comprehensive Spending Review
- Localism Act
- Department of Communities and Local Government Structural Reform Plan
- Devon Structure Plan
- West Devon Borough Council Core Strategy
- West Devon Borough Council saved Local Plan
- Connect Strategy for South Hams and West Devon
- Homes Strategy for South Hams and West Devon
- West Devon Borough Council housing policies
- Health and Social Care strategies and plans
- Devon County Council strategies and plans
- Registered Provider Partners strategies and plans

2.2 West Devon Borough Council Core Strategy Strategic Policy 9

Meeting Housing Needs

Throughout the area of West Devon covered by this Core Strategy all housing development will be expected to contribute to meeting the targets for affordable housing set out below, subject to viability:

- On sites of 1-4 dwellings, excluding wholly flatted developments, a 15% off site financial contribution per dwelling will be required;
- On sites of 5-9 dwellings, excluding wholly flatted developments, 25% of the dwellings on site should be affordable;
- On sites of 10 or more dwellings 40% of the dwellings on site should be affordable.

When the affordable housing policy results in part of a dwelling, the part dwelling shall be provided as a financial contribution where this would not compromise the overall viability of the development.

Planning permissions will be subject to conditions or a planning obligation to ensure that the affordable housing remains affordable in perpetuity.

2.3 Draft National Planning Policy Framework

Local planning authorities should where they have identified affordable housing is required, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective

of creating mixed and balanced communities.

2.4 Department of Communities and Local Government Structural Reform Plan

Meet people's housing aspirations by streamlining and speeding up the planning system, providing local authorities with strong and transparent incentives to facilitate housing growth, as well as making the provision of social housing more flexible.

3. GENERAL PRINCIPLES

- 3.1** Developers and landowners should initially discuss any proposals for residential development with both West Devon's Planning and Housing Sections to ensure that any requirements for affordable housing are clearly identified at an early stage.
- 3.2** Developers will be advised by the Local Authority, at the earliest possible stage, of the need for, and costs of, affordable housing requirements to enable this to be incorporated within their land negotiations.
- 3.3** The extent of what is required will be fairly and reasonably related in scale and kind to the proposed development and will have due regard to what is reasonable in terms of the overall viability of the project.
- 3.4** When considering outline planning applications where the number of dwellings is not stated an affordable housing contribution will be required as set out in paragraph 2.2. This requirement will specify the likely overall percentage of units that shall be affordable and also the proportion of those affordable units required to be of a particular size, type and tenure in accordance with the policy set out in this document.
- 3.5** All planning applications will be assessed against the Council's affordable housing policies with the following exception. The policies will not apply to existing consents where an application is made to vary that consent, provided that the new application does not increase the number of homes on the site. Any increase in units will be subject to the affordable housing policies.
- 3.6** The affordable housing policies **will** apply to planning consents which have expired and been re submitted
- 3.7** All substantial new housing schemes should be planned to "achieve a wide choice of high quality homes, both affordable and market housing, to address the requirements of the community" (PPS3 – Paragraph 9)
- 3.8** Due to very high levels of housing need West Devon will, wherever possible, be seeking 'on-site' contributions from developers on sites of 5 dwellings or more. Off-site contributions on these sites will only be considered in exceptional circumstances or where it is assessed that the Borough's housing need would be better met on another site or in another location.
- 3.9** All information on agreed obligations will be kept on the Local Planning Authority Statutory Planning Register and copies of the agreement will be available to all interested parties.
- 3.10** Agreements between the parties will be entered into under the provisions of the Town and Country Planning Act 1990, Section 106.

- 3.11** The developer will be responsible for paying the LPA's fees in connection with the preparation and completion of the Section 106 Agreement and any viability work which needs to be undertaken.

4. HOUSING SPECIFIC PRINCIPLES

4.1 Affordable Housing - Definition

- 4.1.1** National Planning Policy Statement 3 (PPS3) was revised in June 2011 and defines affordable housing as housing that meets "the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices".

- 4.1.2** Affordable housing includes social rented, affordable rented and intermediate housing (including Low cost Home Ownership products). Further information on the different forms of affordable housing is available on the Council's Website at www.westdevon.gov.uk.

4.2 Affordability

- 4.2.1** It is essential that the affordable housing provided in West Devon meets the definition set out in PPS3. This includes the affordability of new affordable homes i.e. these should be at a cost low enough to afford determined with regard to local incomes and local house prices.
- 4.2.2** The Council carries out a comprehensive assessment of housing needs and affordability. Copies of borough-wide assessments and updates, state of the market reports, housing needs and affordability research and the Council's Homes Strategy are available on request or via the Council's website www.westdevon.gov.uk
- 4.2.3** The Council also commissions specific local housing surveys to determine need and affordability in rural settlements, defined as having a population under 3,000. In West Devon this is all settlements other than Okehampton and Tavistock.
- 4.2.4** The rents charged for social rented housing shall not exceed the Target Rent set by the Tenant Services Authority plus or minus 5%.
- 4.2.5** The rents charged for affordable rented housing may not exceed 80% of market rent. Valuations to determine local market rents will be carried out in accordance with recognised Royal Institute of Chartered Surveyors (RICS) standards. The Council will seek to moderate affordable rents to a lower figure where there is evidence to demonstrate that 80% market rent is not affordable to local households in housing need.
- 4.2.6** The Council will determine the mix of affordable rented and social rented housing on any development with regard to the level of income of local households in need and local market rent levels.
- 4.2.7** Subject to site specific viability issues, the combined gross weekly housing costs, i.e. the sum of rent, mortgage and service charges for *shared equity housing* provided through the planning process, or with public subsidy, must not exceed the amounts set out in the table below.

PROPERTY TYPE	Maximum Gross Weekly Housing Cost	
	Percentage of equity purchased	
	25%	50%
1 bed flat	£94	£123
2 bed flat	£108	£142
2 bed house	£118	£157
3 bed house (4 persons)	£132	£175
3 bed house (5 persons)	£146	£194

Notes to above table

1. based on 6% mortgage over 25 years, using information from the Council of Mortgage Lenders
2. assumes that no more than 30% of gross household income should be spent on housing costs
3. assumes a service charge of £500 pa on flats and £300 pa on houses

4.2.8 The maximum combined gross weekly housing cost paid by the purchaser of a shared *equity* lease shall not exceed 30% of the gross income of the purchasing household, and the percentage of the equity sold shall reflect this.

4.2.9 The initial percentage of the equity sold shall not be below 25%.

4.3 Development Standards

4.3.1 The Council will expect high standards of design, layout and landscaping for all developments, which respect the character of the area, reflect local distinctiveness and are in keeping with the Council's principles of sustainable development. Developers should ensure that the proposals meet with the requirements of West Devon Borough Council's Core Strategy policies in respect of design, conservation and sustainability.

4.3.2 To ensure the creation of mixed and integrated communities the affordable housing should not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy.

4.3.3 The affordable housing should be tenure blind and fully integrated with the market housing. Normally it should be distributed evenly across the site in small clusters distributed evenly throughout the development, unless otherwise agreed by the Council. Tenure blind integration should be considered at an early stage of the detailed design and layout of the site.

4.3.4 Schemes funded under the Homes and Communities Agency's (HCA) National Affordable Housing Programme, must be built to, meet or exceed the HCA's Design and Quality Standards (April 2007)

4.3.5 The latest HCA standards can be downloaded from the HCA's website and the HCA regional offices can provide further clarification.

4.3.6 All affordable housing shall be built to at least Level 3 of the Code for Sustainable Homes unless otherwise agreed by the Council. Agreement will be exceptional rather than the norm. A booklet containing full details of the Code is available from the Department for Communities and Local Government.

4.3.7 The Council will seek to ensure a proportion of homes on larger developments are provided to the full Lifetime Homes standard as set out in the Core Strategy (Strategy Policy 8).

4.3.8 In general developers should consider the following design factors:-

- external and internal environment factors
- accessibility requirements
- safety and security
- energy efficiency, environmental sustainability and noise abatement
- maintainability, durability and adaptability

4.4 Achieving a mix of housing

4.4.1 “Key characteristics of a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people” (PPS3 June 2011)

4.4.2 Based on housing needs evidence the Council will seek the following mix:

- ❖ 80% of affordable housing will be for rent, and 20% for sale on shared equity leases.
- ❖ Affordable housing for sale on shared equity leases will have 2 bedrooms or more, and be houses and not flats.
- ❖ 25% of affordable housing will have one bedroom, 50% two bedrooms and 25% three bedrooms or more. Two and three bedroom properties should usually be houses rather than flats. If a developer/registered provider wishes to provide two bedroom dwellings instead of one bedroom, they must be available for occupation by a single person.

The above figures are indicative and may be varied to meet the identified needs of particular areas.

4.5 Housing Needs Assessment

4.5.1 Affordable housing requirements are made according to levels of need which are assessed as follows:-

- Housing Market and Needs Assessments
- State of the Market Reports
- Statistical data on the economy, employment, demographics, incomes, house prices and mortgage availability and affordability.
- Current information held on the Housing Register and Devon Home Choice bidding patterns and allocations
- Information from parish surveys or appraisals
- Shared equity take-up
- Number and type of affordable housing properties throughout the Borough
- Recent availability of properties throughout the borough
- Number of right to buy sales which have taken place in the Borough
- Mix of house types and sizes throughout the Borough

The above list is not exhaustive but gives an indication of the information used to determine levels of need.

- 4.5.2** Any supported housing requirements should be clearly evidenced and compatible with the Supporting People Programme.
- 4.5.3** Operationally, the definition of '**local need**' is taken to mean residents of West Devon Borough as a whole, unless development is carried out on an exception site where local connection criteria is restricted to a smaller area and is focussed on particular parishes and neighbouring parishes.
- 4.5.4** Such 'local need' criteria on exception sites will be agreed on an individual basis as and when such sites are developed.
- 4.5.5** For the purposes of clarity a household has a connection with West Devon in any of the following circumstances:-
- a. The applicant has lived in West Devon for 6 out of the last 12 months or 3 out of the last five years, where this has been out of choice.
 - b. The applicant has permanent work in West Devon
 - c. The applicant has family connections in West Devon (immediate family who have themselves lived in West Devon for at least 5 years).
 - d. The applicant is owed a statutory rehousing duty under the homelessness legislation

4.6 Occupancy and Controls

- 4.6.1** West Devon will be seeking to control initial and future occupancy of **ALL** affordable homes for local people either;
- by working in partnership with a *Registered Provider*, or
 - by way of the Section 106 Agreement

4.7 Registered Providers (RP)

- 4.7.1** Where developers intend to work in partnership with a Registered Provider they are advised to contact the Council's Strategic Housing Team in order to identify an RP that can demonstrate the following:-
- good housing management performance
 - local management
 - proven development track record.

but the final choice of RP rests with the developer

- 4.7.2** Developers should seek to identify any partner *RP* early on in the development process in order that the *RP* may be involved in the negotiation process at an early stage.
- 4.7.3** If a developer proposes to work with an organisation which is not an *RP*, the Council's written prior permission must be obtained. That permission will only be given if the Council are satisfied on the quality of the housing management to be provided, including type and security of tenure, quality and cost of maintenance, allocation arrangements and resident involvement and communication.

5. OFF-SITE CONTRIBUTIONS

- 5.1** Where a financial contribution is payable this will be used to meet affordable housing needs for the Borough of West Devon. Contributions will not

necessarily therefore be utilised in the same settlement and may be pooled to contribute towards the provision of affordable housing anywhere in the Borough.

- 5.2 The calculation for contributions is based on the Affordable Housing Viability Assessment carried out by Level Ltd in February 2010 to support the affordable housing policy set out in the Core Strategy. This study used the Level Development Viability Model to determine residual land values (RLV) in relation to the gross development value (GDV). The study used 25% of GDV for smaller sites, that do not include flatted developments, and 20% on larger sites where there is likely to be some flatted development.
- 5.3 For simplicity, and as the contribution may be used towards the provision of affordable housing anywhere in the borough, the Council has used average market values by bedroom size and property type (flat or house) across West Devon to calculate the RLV and the resulting contribution this will give rise to. However, where the developer can demonstrate to the satisfaction of the Council that the market value is significantly lower than the average figure a reduced contribution based on the actual market value may be agreed.
- 5.4 The methodology for the calculation of contributions is set out in Annex A and summarised below.
- 5.5 On sites of 1-4 dwellings an on-site contribution is not practical and therefore an off-site financial contribution will be required to meet the Council's strategic objectives and create mixed and balanced communities:

Bedroom size and type	Financial contribution per dwelling
Two bedroom house	£6,000
Three bedroom house	£7,875
Four bedroom plus house	£13,125

- 5.6 When the Local Planning Authority (LPA) and developer have exceptionally agreed to accept that it would not be desirable for affordable housing to be provided on any particular development of five dwellings or more, the developer shall pay a capital sum to the Local Authority sufficient to ensure that affordable housing can be delivered elsewhere in the Borough.
- 5.7 Financial contributions in such cases will equate to the value of the free land that would have been provided if the contribution had been provided on site.

On sites of 5-9 dwellings the contribution will be based on the provision of two bedroom houses on site only as this is the property type for which there is the greatest need as set out in the tenure mix in 4.4.2. This equates to £40,000 per property.

On sites of 10 dwellings or more the contribution will be as follows:

Bedroom size and type (based on usual property mix required by the Council)	Financial contribution per dwelling
One bedroom flat	£18,000
Two bedroom house	£32,000
Three bedroom house	£42,000

5.8 The details of when payment is due will be set out in the Section 106 agreement, but in general:

- 50% of the agreed sum will be payable within one month of implementation of the development.
- On sites of 1-4 dwellings the remaining 50% will be payable on occupation of the first dwelling.
- On sites of 5-9 dwellings the remaining 50% will be payable on occupation of the fourth dwelling.
- On developments of over 10 units the remaining 50% will be payable on occupation of the first 50% of the dwellings.

5.9 The Agreement will also specify that monies received must be used towards the provision of affordable housing in the borough of West Devon within an agreed period from the receipt of all monies. This period will normally be no less than 10 years. If not so applied, within the terms of the Agreement, the monies shall be repayable on demand. A clause will also be included providing details in respect of the actual payments requested being “index linked” and in the event of any delay in the payment, interest shall become payable, as specified in the agreement.

6. VIABILITY

6.1 All contributions are subject to viability.

6.2 Where developers raise concerns in respect of the viability of schemes due to requirements including one or more proposed obligations, they will be required to substantiate any claim by submitting full financial details and valuations for assessment. The Council will decide the scope of any such viability assessment, including who will undertake the assessment. The developer will be responsible for paying all costs associated with the assessment. An indicative guide to the type of viability information required is set out at annexe B.

7. DEVELOPMENTS EXCLUDED FROM PROVIDING AN AFFORDABLE HOUSING CONTRIBUTION

7.1 The following developments will not be subject to a requirement to provide either an off-site or on-site affordable housing contribution:

- Developments of 100% affordable housing.
- Wholly flatted developments of up to, and including, 9 units.
- Developments with a condition limiting the use of the dwellings on that development so that they are not available for market sale or rent, to include agricultural dwellings and holiday lets.
- Replacement dwellings or conversions, which do not provide additional residential units, unless the nature of such dwellings differs significantly from those they are replacing. The Borough Council will determine what constitutes a significant change, but examples might include flats being replaced by houses or a dwelling that is much larger than the original unit.
- Hostels, educational establishments with accommodation directly linked to educational facilities on site and residential care/nursing homes.

7.2 For the avoidance of doubt contributions are payable where there is a change of use or sub-division that results in a net additional residential dwelling not limited by condition.

8. EQUALITY AND DIVERSITY

- 8.1 West Devon Borough Council is committed to *acknowledging* the full diversity of *our* community and to promoting equality of opportunity for everyone.
- 8.2 This *document* can be made available in large print, Braille, tape format or in any other language on request.

9. REVIEW

- 9.1 This policy will be reviewed on an annual basis to ensure it remains fit for purpose.

ANNEX A – OFF-SITE CONTRIBUTION METHODOLOGY

Sites of 1-4 dwellings, excluding wholly flatted developments:

Contributions based on 15% of residual land value. This is in turn is based on 25% of gross development value, as set out in the Affordable Housing Viability Assessment carried out by Levvel Ltd in February 2010. Gross development value based on 2010 market values as assessed by the Council using Hometrack and Land Registry data.

Type and bedroom size of property	Average market value	Residual land value (RLV) at 25%	Contribution at 15% of RLV, per property
Two bedroom house	£160,000	£40,000	£6,000
Three bedroom house	£210,000	£52,500	£7,875
Four bedroom house	£350,000	£87,500	£13,125

Sites of 5-9 dwellings, excluding wholly flatted developments:

Contributions will normally be expected to be on-site provision of affordable housing. In exceptional cases a financial contribution may be agreed in lieu of the on-site contribution. In such cases the contribution will equate to the value of the free land that would have been provided if the contribution had been provided on site.

On sites of 5-9 dwellings the on-site contribution is set at 25%. This would deliver between one and two dwellings. Due to the level of need in West Devon these would be expected to be two bedroom houses. With an average market value of £160,000 the contribution would therefore equate to £40,000 per dwelling.

Contribution:

Number of properties on development	Expected on-site contribution	Total contribution
Five-Six	One 2 bedroom house	£40,000
Seven-Nine	Two 2 bedroom houses	£80,000

Sites of 10 dwellings or more:

Contributions will normally be expected to be on-site provision of affordable housing. In exceptional cases a financial contribution may be agreed in lieu of the on-site contribution. In such cases the contribution will equate to the value of the free land that would have been provided if the contribution had been provided on site.

On sites of 10 dwellings or more the on-site contribution is set at 40%. Contributions are based on 20% of gross development value, as set out in the Affordable Housing Viability Assessment carried out by Levvel Ltd in February 2010. Gross development value based on 2010 market values as assessed by the Council using Hometrack and Land Registry data.

Bedroom size and type (based on usual property mix required by the Council)	Average market value	Residual land value (RLV) at 20% (contribution per property)
One bedroom flat	£90,000	£18,000
Two bedroom house	£160,000	£32,000
Three bedroom house	£210,000	£42,000

Worked example:

Development of 20 houses: on-site contribution = 8 houses (40% of 20)

Mix (as per 4.4.2): 2 one bedroom flat, 4 two bedroom houses and 2 three bedroom houses.

Calculation:

2x £18,000 = £36,000

4 x £32,000 = £128,000

2x £42,000 = £84,000

Total contribution: £248,000

Annex B: Development Viability – Key Information Required

Where development viability is to be assessed, the Council will require an assessment of the site economics. The following sets out the range of key viability information that is likely to be required in order to assess viability. A free development viability tool is available to download from the Homes and Communities Agency website at www.homesandcommunities.co.uk

Depending on the nature of the proposals, the information likely to be required may include the following.	
Residential Values	
Affordable Housing	£
Open Market Housing	£
Social Housing Grant	£
Residential Building, Marketing & Section 106 Costs	
Affordable Housing Build Costs	£
Open Market Housing Build Costs	£
Residential Car Parking Build Costs	£
Cost Multipliers (Eco-homes etc)	£
Building Contingencies	% / £
Building Cost Fees (Architects, QS etc):	% / £

Other Acquisition Costs (£)	£
Section 106 Costs (£)	
Infrastructure / Public Transport	£
Community Facilities	£
Public Realm / Environment	£
Sustainability Issues	£
Others	£
Site Abnormals	
Infrastructure Costs	£
Contamination Costs	£
Demolition Costs	£
Other Costs	£
Sustainability Initiatives	£
Marketing (Open Market Housing)	
Sales Fees:	% / £
Legal Fees (per OM unit):	% / £
Marketing (Affordable Housing)	
Cost of sale to RSL (£)	% / £
Total Finance Costs	
Arrangement Fee	£
Misc Fees (Surveyors etc)	£
Agents Fees	£
Legal Fees	£
Stamp Duty	£
Total Interest Paid	% / £
Developer 'Profit'	
Open Market Housing Operating 'Profit'	£ / %
Affordable Housing 'Profit'	£ / %
SITE VALUE	£