



- To enhance the character of the built environment and in particular to protect the best features of the urban fabric;
- To protect important heritage features; and
- To promote the recovery of derelict and degraded land and to control the adverse effects of development.



3.4 POLICIES AND PROPOSALS

The Countryside

POLICY ENV 1 - DEVELOPMENT IN THE COUNTRYSIDE

WITHIN THE DELINEATED COUNTRYSIDE PERMISSION WILL ONLY BE GRANTED FOR:

- (i) DEVELOPMENT WHICH IS ESSENTIAL FOR AGRICULTURE, HORTICULTURE, FORESTRY OR OTHER DEVELOPMENT INCLUDING MINERAL EXTRACTION, WASTE MANAGEMENT, UTILITIES OR INFRASTRUCTURE FOR WHICH A RURAL LOCATION IS ESSENTIAL;**
- (ii) APPROPRIATE RECREATIONAL USE;**
- (iii) THE RE-USE OR ADAPTATION OF EXISTING BUILDINGS PARTICULARLY TO ASSIST THE DIVERSIFICATION OF THE RURAL ECONOMY; OR**
- (iv) DEVELOPMENT WHICH IS APPROVED UNDER OTHER POLICIES OF THE PLAN.**

- 3.4.1** Due to the diverse nature of the Vale of Glamorgan areas of countryside range from remote open landscapes to the more enclosed urban fringe settings of towns and villages. The Vale of Glamorgan is an area under constant pressure for development unrelated to traditional activities. Such development can unacceptably affect agriculture and diminish the quality of the rural landscape. This



policy seeks to protect the countryside from inappropriate development. For the purposes of this policy countryside is defined as that area of land lying outside settlement boundaries of the main towns and villages, identified in Policy HOUS 2, which has not been developed for employment use or allocated in the Plan for development purposes. Employment Use is defined as those uses which fall within classes B1 Business, B2 General Industrial and B8 Storage and Distribution of the Town and Country Planning (Use Classes) Order 1987 (as amended).

3.4.2 Planning Policy Wales 2002 paragraph 5.1.1 states:

"The natural heritage of Wales includes its geology, land forms and biodiversity and its natural beauty and amenity. It embraces the relationship between landform and landscape, habitat and wildlife, and their capacity to sustain economic activity and to provide enjoyment and inspiration. The natural heritage is not confined to statutorily designated sites but extends across all of Wales - to urban areas, the countryside and coast. Attractive and ecologically rich environments are important, both for their own sake and for the health and the social and economic well being of individuals and communities. Biodiversity and landscape are important in the economic life of many communities and the quality of the environment is often a factor in business location decisions."

3.4.3 In conjunction with the Welsh Development Agency and the Countryside Council for Wales, the Council have undertaken a comprehensive landscape assessment of the Vale of Glamorgan, using the new LANDMAP methodology. This study includes an assessment of all of the components listed above and has provided a basis for landscape policy, management and design guidance. Planning Policy Wales 2002 also states that in order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside away from existing settlements recognised in UDPs or from other areas allocated for development, must be strictly controlled. Many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages.

3.4.4 Policy ENV 1 recognises that there may be a number of appropriate uses which may be permitted in the countryside, subject to no unacceptable effects. Examples may include infrastructure schemes proposed by the Statutory Undertakers, affordable housing (Policy HOUS 13) intended to meet rural housing needs, the development of waste management facilities (Policy WAST 1), the reuse and redevelopment of redundant hospitals (Policy COMM 2) and the provision of community facilities e.g. village halls, churches, burial land, the development of telecommunication systems (Policy COMM 6) and renewable energy schemes (Policy COMM 7).

3.4.5 Appropriate recreational facilities may be permitted in the countryside where they are of an informal nature and compatible with the rural landscape, nature conservation and visual amenities of the open countryside. Uses such as walking, angling, climbing and picnicking will be acceptable, as these are generally



compatible with the rural character of the open countryside. Strict control will, however, be exercised over facilities such as car parks and toilet blocks where they are considered appropriate, and these should be sensitively integrated into the countryside. Proposals for golf courses and other sport and leisure facilities, in the open countryside will be assessed in accordance with policies in the Sport and Recreation chapter of the Plan. (See Policies REC 7, 8 and 9).

- 3.4.6** The Plan recognises the important role small scale farm diversification can play in promoting a healthy rural economy in the Vale. Small scale diversification can encourage further economic diversity by helping to stimulate new and varied forms of wealth creation and employment. Examples of small scale diversification include teleworking, holiday accommodation, farm shops and craft workshops. In addition to farm diversification there are opportunities for small-scale rural enterprise in existing rural settlements, sites identified for employment use in rural areas and through the use of existing rural buildings.

POLICY ENV2 - AGRICULTURAL LAND

THE BEST AND MOST VERSITILE AGRICULTURAL LAND (GRADES 1, 2 AND 3A) WILL BE PROTECTED FROM IRREVERSIBLE DEVELOPMENT, SAVE WHERE OVERRIDING NEED CAN BE DEMONSTRATED. NON AGRICULTURAL LAND OR LAND OF A LOWER QUALITY SHOULD BE USED WHEN DEVELOPMENT IS PROPOSED, UNLESS SUCH LAND HAS A STATUTORY LANDSCAPE, NATURE CONSERVATION, HISTORIC OR ARCHAEOLOGICAL DESIGNATION WHICH OUTWEIGHS AGRICULTURAL CONSIDERATIONS.

- 3.4.7** A thriving agricultural industry requires that its most productive land is protected from irreversible development. Government Policy is to protect the best and most versatile land i.e. Grades 1, 2 and 3a, as a "national resource for the future". Where appropriate, non-agricultural land should be considered initially for development. The reclamation and development of derelict land has the advantage of removing possible eyesores and bringing such land back into beneficial use. Where development is proposed on land of Grade 1, 2 and 3a and where there is a choice between sites of different classification, development should generally be directed towards land of the lowest classification.

- 3.4.8** Notwithstanding the above, there may be occasions when land of low agricultural quality may be of importance for other reasons, for example, high landscape value or as an important wildlife habitat. Developments, such as those permitted by Policy ENV 1, may conflict with other plan policies intended to protect the natural environment. As a consequence proposals which require the development of agricultural land will need to be assessed fully in the light of all appropriate plan policies and other material considerations.





contamination/instability and indicate appropriate remedial measures. Planning permission may not be granted unless the Council is satisfied that instability and contamination may be overcome safely and without undue impact upon the environment.

POLICY ENV 27 - DESIGN OF NEW DEVELOPMENTS

PROPOSALS FOR NEW DEVELOPMENT MUST HAVE FULL REGARD TO THE CONTEXT OF THE LOCAL NATURAL AND BUILT ENVIRONMENT AND ITS SPECIAL FEATURES. NEW DEVELOPMENT WILL BE PERMITTED WHERE IT:

- (i) COMPLEMENTS OR ENHANCES THE LOCAL CHARACTER OF BUILDINGS AND OPEN SPACES;**
- (ii) MEETS THE COUNCIL'S APPROVED STANDARDS OF AMENITY AND OPEN SPACE, ACCESS, CAR PARKING AND SERVICING;**
- (iii) ENSURES ADEQUACY OR AVAILABILITY OF UTILITY SERVICES AND ADEQUATE PROVISION FOR WASTE MANAGEMENT;**
- (iv) MINIMISES ANY DETRIMENTAL IMPACT ON ADJACENT AREAS;**
- (v) ENSURES EXISTING SOFT AND HARD LANDSCAPING FEATURES ARE PROTECTED AND COMPLEMENTED BY NEW PLANTING, SURFACE OR BOUNDARY FEATURES;**
- (vi) ENSURES CLEAR DISTINCTION BETWEEN PUBLIC AND PRIVATE SPACES;**
- (vii) PROVIDES A HIGH LEVEL OF ACCESSIBILITY, PARTICULARLY FOR PUBLIC TRANSPORT, CYCLISTS, PEDESTRIANS AND PEOPLE WITH IMPAIRED MOBILITY;**
- (viii) HAS REGARD TO ENERGY EFFICIENCY IN DESIGN, LAYOUT, MATERIALS AND TECHNOLOGY; AND**
- (ix) HAS REGARD TO MEASURES TO REDUCE THE RISK AND FEAR OF CRIME.**

3.4.97 This policy establishes a framework to achieve appropriate sensitive new development that promotes creative and imaginative design within the Vale of Glamorgan. In view of the wide variety of architectural styles and contrasting identities of the Vale's towns, villages and open countryside, it would be inappropriate to introduce rigid, over prescriptive design controls for new development within the Plan. However, to further promote the above good design principles and provide better advice to architects and their clients the Council will prepare guidance and design briefs for specific topics or sites. Similarly advice on plant species in landscaping schemes can help meet the criteria set out above. In many circumstances the use of native provenance tree and shrub species in landscaping schemes can provide benefits for bio-diversity as well. Volume Two of



"Landscapes Working for the Vale of Glamorgan" study provides some guidance on this point. Supplementary Planning Guidance has been produced in respect of amenity standards.

POLICY ENV 28 - ACCESS FOR DISABLED PEOPLE

ALL NEW DEVELOPMENT (AND WHERE PREDICTABLE, THE CHANGE OF USE OR ALTERATIONS TO BUILDINGS) OPEN TO THE PUBLIC AND BUILDINGS USED FOR EMPLOYMENT AND EDUCATION PURPOSES WILL BE REQUIRED TO PROVIDE SUITABLE ACCESS FOR CUSTOMERS, VISITORS OR EMPLOYEES WITH MOBILITY DIFFICULTIES.

- 3.4.98** In an ideal world all people should be able to move freely around towns, cities and villages and feel welcome. However, in practice the design of buildings and spaces around those buildings can create insurmountable obstacles to people with limited mobility. In addition, unsympathetic design can make people with special mobility needs feel most unwelcome.
- 3.4.99** It is important to encourage those persons who design and manage the environment to give equal importance to access and the provision of facilities for people with limited mobility as they do to the appearance and functioning of buildings and spaces. By doing this the environment can be improved for everyone including people with disabilities, parents with small children and others with limited mobility. Many of the benefits can be achieved with no additional or minimal extra cost, simply by careful thought and imagination. Where additional money is required, most people would agree that the investment is worthwhile financially and socially.
- 3.4.100** The statutory framework with regard to the provision of access and facilities for persons with disabilities is embodied in Section 76 of the Town and Country Planning Act 1990 which requires Local Planning Authorities when granting planning permission to draw the attention of the applicant to Sections 4 and 7 of the Chronically Sick and Disabled Persons Act 1970. The Act requires developers of specified types of building to provide suitable means of access, parking and toilet facilities to meet the needs of people with disabilities, where practicable and reasonable. The types of building to which the Act applies are buildings open to the public (for example shops, restaurants, hotels, places of entertainment, leisure and community buildings), places of employment, education buildings and most types of buildings other than residential ones.
- 3.4.101** The "Codes of Practice for Access for the Disabled to Buildings", British Standard Institution code of practice BS 5810: 1979 sets out the minimum standards with which access provision should comply. However, the BSI are currently reviewing these standards in the light of developments in access design in the last 15 years. Developers will therefore be encouraged to design to higher standards than presently stated in BS 5810.
- 3.4.102** In the case of new building development the requirements of Part M of the Building Regulations 1992 will apply. There will be very few instances where it is neither



to avoid the fusion of adjoining settlements. Other countryside protection policies are contained within the Environment Chapter. Policies ENV 1 and ENV 3 are particularly relevant. In respect of appropriate housing development in the rural villages outlined in Policy HOUS 2, reference should be made to Policy HOUS 13 on Exception Sites for Affordable Housing in the Rural Vale.

- 4.4.63** The Council considers only those villages listed under Policy HOUS 2 to have sufficient physical form and capacity to assimilate further infill development without it having a detrimental impact on their existing character and environment. An infill plot is defined as a site enclosed or surrounded by existing development in the sense of the filling of a small gap within an otherwise built up frontage. All site boundaries should be existing man made or natural physical features. Arbitrary lines drawn for the convenience of plot size do not qualify as such. The fact that an infill site exists, however, does not mean this will automatically receive planning permission. Small scale rounding off, which for the purpose of this Plan is defined as development which constitutes no more than five dwellings, may also be permitted where the site lies within or immediately adjacent to the settlement boundary and conforms to a logical site boundary. All site boundaries should be existing man made or natural physical features. Arbitrary lines drawn for the convenience of plot size do not qualify as such. Each proposal, if accepted as infilling or rounding off will be assessed against the policy criteria and will need to be considered in the context of the relationship to areas of attractive landscape, high quality townscape and areas of historical, archaeological or ecological importance. (See also HOUS 13 on Exception Sites for Affordable Housing in the Rural Vale).

POLICY HOUS 3 - DWELLINGS IN THE COUNTRYSIDE

SUBJECT TO THE PROVISIONS OF POLICY HOUS 2 THE ERECTION OF NEW DWELLINGS IN THE COUNTRYSIDE WILL BE RESTRICTED TO THOSE THAT CAN BE JUSTIFIED IN THE INTERESTS OF AGRICULTURE AND FORESTRY.

- 4.4.64** If the countryside is to remain undeveloped and its attractive appearance protected, new residential development outside those rural settlements referred to in Policy HOUS 2 must be strictly controlled. (See also Policy ENV 1).
- 4.4.65** New housing outside villages and towns often creates unacceptable intrusions into the rural landscape. New dwellings in the countryside can also place an unacceptable burden on local services.
- 4.4.66** Those rural villages not identified in Policy HOUS 2 are considered not to have sufficient physical form or capacity to assimilate new residential development without having a detrimental impact on their existing character and environment. Additional residential development in certain villages will not be permitted in order to protect their character and appearance. Consequently these have been excluded from Policy HOUS 2. Furthermore, the many groups of scattered and loose knit buildings in the Rural Vale cannot be regarded as settlements under the terms of Policy HOUS 2. These are little more than pockets of dwellings and farmsteads lying in isolation in the countryside. Additional dwellings would be



inappropriate in these locations unless justified in the interests of agriculture or forestry.

- 4.4.67** Wherever possible, dwellings for agricultural and forestry workers should be located within settlements in the locality. However, the Council recognises that in certain circumstances, agricultural dwellings need to be located away from the existing settlements. Proposals for such dwellings will be determined according to the criteria set out in Policy HOUS 5.

POLICY HOUS 4 - NEW SETTLEMENTS

PROPOSALS FOR NEW SETTLEMENTS WILL NOT BE PERMITTED.

- 4.4.68** New settlements are defined as substantial (more than 1000 new dwelling units) freestanding villages or small towns. Through the UDP the Council has allocated (together with existing commitments) sufficient land for residential purposes to meet the estimated demand for new dwellings. The demand will be met by the logical expansion of existing settlements e.g. Cogan Hall Farm, Penarth and Pencoedre, Barry (Policies HOUS 1 (8) and (3)) and by the regeneration of brownfield sites e.g. Barry Waterfront, Penarth Haven and Rhoose Point (Policies HOUS 1 (1), (7) and (13)). Consequently, there is not considered to be a requirement for new settlements within the Vale during the Plan Period.

POLICY HOUS 5 - AGRICULTURAL OR FORESTRY DWELLINGS

THE DEVELOPMENT OF NEW DWELLINGS BEYOND THE IDENTIFIED SETTLEMENT BOUNDARIES DESIGNATED BY POLICIES HOUS 2 IN ASSOCIATION WITH AGRICULTURE OR FORESTRY WILL BE PERMITTED IF:

- (i) AN ESSENTIAL NEED, BASED ON A FUNCTIONAL AND WHERE APPROPRIATE FINANCIAL NECESSITY IS CLEARLY DEMONSTRATED;**
- (ii) THE SCALE, SITING, DESIGN, LANDSCAPING AND EXTERNAL APPEARANCE OF THE PROPOSED NEW DWELLING IS COMPATIBLE WITH ANY EXISTING RELATED STRUCTURES AND THE SURROUNDING LANDSCAPE; AND**
- (iii) AN ACCEPTABLE ACCESS TO THE DWELLING CAN BE PROVIDED.**

IF THESE CRITERIA ARE MET A CONDITION WILL BE IMPOSED ON ALL NEW AGRICULTURE/ FORESTRY DWELLINGS LIMITING THE OCCUPATION OF THE DWELLING TO A PERSON SOLELY, OR MAINLY, WORKING, OR LAST WORKING IN THE LOCALITY, IN AGRICULTURE AS DEFINED IN SECTION 336 OF THE TOWN AND COUNTRY PLANNING ACT 1990, OR IN FORESTRY OR A WIDOW OR WIDOWER OF SUCH A PERSON, AND TO ANY RESIDENT DEPENDANTS.



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- 4.4.69** Applications for new agricultural or forestry dwellings will need to demonstrate that the intention of the applicants to engage in agriculture or forestry is genuine, and will materialise and be capable of being sustained. It should also be shown that no other practical alternative dwellings are available in the locality and the needs of the enterprise in terms of labour and the efficient running of the business render the dwelling essential. Applicants will need to show that the proposed dwelling is likely to be undertaken and be sustainable in the long term. The Council will seek professional advice to assess the viability of existing and proposed agricultural and forestry business activities where required. The history of the landholding will also be taken into consideration.
- 4.4.70** Planning Policy Wales 2002 states that when determining planning applications for agricultural and forestry dwellings, the following matters should be considered;
- a functional test to establish whether, for the proper functioning of the enterprise (in terms of both its current and likely future requirements), one or more workers needs to be readily available at most times; and
 - a financial test to establish that the farming enterprise is economically viable, since if it is not, new permanent accommodation cannot be justified on agricultural grounds, and to provide evidence of the size of dwelling which the unit can sustain.
- 4.4.71** Where permission is to be granted for a new agricultural or forestry dwelling, occupancy conditions will be imposed on the dwelling itself and may also be imposed on existing dwellings and/or on the business unit which are under the control of the applicant and need, at the time of application, to be used in conjunction with the unit. Planning obligations may also be used, where appropriate, to tie a farmhouse to adjacent farm buildings to prevent them being sold separately without further application to the Council. The size of the proposed dwelling must not be unduly large relative to the needs of the unit or the ability of the enterprise to provide an income to sustain it.

POLICY HOUS 6 - AGRICULTURAL OCCUPANCY CONDITIONS

APPLICATIONS FOR THE REMOVAL OF AGRICULTURAL OCCUPANCY CONDITIONS WILL BE CONSIDERED ON THE BASIS OF REALISTIC ASSESSMENTS OF THE CONTINUING NEED FOR THEIR RETENTION.

- 4.4.72** The need for an agricultural dwelling relates to an area as a whole and it is not restricted to a particular holding. Proposals to remove agricultural occupancy conditions should normally include evidence that the dwelling has been offered for sale over a sustained period at a price to reflect the occupancy condition. Unless a property is advertised for sale at a realistic price it will be difficult to judge whether such a need exists and therefore whether the condition should be discharged.



people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past and present mental disorder, and Class C2 also includes the personal care of children and medical care and treatment."

POLICY HOUS 11 - RESIDENTIAL PRIVACY AND SPACE

EXISTING RESIDENTIAL AREAS CHARACTERISED BY HIGH STANDARDS OF PRIVACY AND SPACIOUSNESS WILL BE PROTECTED AGAINST OVER DEVELOPMENT AND INSENSITIVE OR INAPPROPRIATE INFILLING.

- 4.4.81** This policy aims to protect existing high quality housing areas from over development or insensitive or inappropriate infilling. A similar policy was introduced by the Secretary of State for Wales in his approval of the South Glamorgan Structure Plan Proposals for Alteration No. 1 in 1989. Account should also be taken of the Council's Approved Amenity Standards.

POLICY HOUS 12 - AFFORDABLE HOUSING

THE COUNCIL WILL WHERE THERE IS A DEMONSTRABLE NEED, SEEK TO NEGOTIATE WITH DEVELOPERS FOR THE INCLUSION OF A REASONABLE ELEMENT OF AFFORDABLE HOUSING IN SUBSTANTIAL DEVELOPMENT SCHEMES. CLEAR AND ADEQUATE ARRANGEMENTS SHOULD BE MADE TO ENSURE THAT THE BENEFITS OF SUCH HOUSING ARE SECURED FOR INITIAL AND SUBSEQUENT OCCUPANTS.

- 4.4.82** For the purposes of this Policy a substantial development is defined as a housing development of more than 50 units. Affordable housing is defined in Technical Advice Note (Wales) 2 'Planning and Affordable Housing' to encompass both low cost, market and subsidised housing (irrespective of tenure, exclusive or shared ownership, or financial arrangements) that will be available to people who cannot afford to occupy houses generally available on the open market.
- 4.4.83** The level of affordability will vary over geographical areas and over time according to incomes and the operation of the local housing market.
- 4.4.84** The Council's Housing Strategy aims to ensure that as far as resources permit, residents occupy accommodation which is adequate for their needs in terms of size, fitness for occupation and cost. This will be achieved largely through the co-ordination of policies and proposals aimed at providing affordable housing in the Council's Housing Strategy and Operation Programme (HSOP) and the Vale of Glamorgan Unitary Development Plan.
- 4.4.85** The starting point for the provision of affordable housing will be an assessment of the level and geographical distribution of housing need in the Vale, initially utilising existing information on housing need derived from housing waiting lists, the 1991 Census and other relevant information from the housing associations operating within the Vale. A wider assessment of housing need in the former Borough



Council's area was undertaken by consultants in 1994 and the results from this survey assists in forming a more comprehensive means of identifying the level and geographical distribution of housing need. This will take into account house prices and market rents, the size and needs of households and their ability by income to support affordable housing.

- 4.4.86** The bulk of affordable housing provision will be made in the urban areas of the Vale and in particular Barry and Penarth. There are a number of ways that affordable housing may be delivered through the Unitary Development Plan particularly in urban areas, including the conversion of under used space over shops and offices into flats, the conversion of existing buildings into flats and through higher density developments which may make it easier for a developer to provide smaller affordable market units.
- 4.4.87** The best way of securing new affordable housing units will be through the inclusion of a mix and balance of house types and sizes in large new housing developments to cater for a range of housing needs. Eighty units of social housing have previously been secured as part of the development brief produced by Cardiff Bay Development Corporation for the comprehensive redevelopment of Penarth Dock. The comprehensive redevelopment of Barry Waterfront, the developments at North East Barry, Cogan Hall Farm, Penarth, and the Cowbridge Road/Sawmill Site, Ystradowen will also offer opportunities for the provision of affordable housing. The proximity of these sites to existing and proposed services such as shops and public transport offers particular locational advantages. The Council will continue to work closely with Associated British Ports, the Welsh Development Agency, Welsh Assembly Government, registered social landlords and private sector developers to ensure that at least 20% of the total number of residential units are for affordable housing in the Barry Waterfront Redevelopment Scheme.



Holton Reach site on the Waterfront, Barry

**POLICY HOUS 13 - EXCEPTION SITES FOR AFFORDABLE HOUSING
IN THE RURAL VALE**

IF IT CAN BE DEMONSTRATED THAT IN THE RURAL VALE THERE IS AN IDENTIFIED LOCAL NEED FOR AFFORDABLE HOUSING, THE DEVELOPMENT OF A LIMITED NUMBER OF ADDITIONAL SITES WILL BE PERMITTED IF ALL OF THE FOLLOWING CRITERIA ARE MET:

- (i) THE SITE IS WITHIN OR ADJOINING AN EXISTING SETTLEMENT BOUNDARY;**
- (ii) THE SITE IS COMMENSURATE IN SCALE, DESIGN AND LOCATION WITH THE IDENTIFIED NEED;**
- (iii) CLEAR AND ADEQUATE ARRANGEMENTS ARE MADE TO ENSURE THAT THE BENEFITS OF SUCH HOUSING ARE SECURED FOR INITIAL AND SUBSEQUENT OCCUPANTS;**
- (iv) THE SCALE AND FORM OF THE PROPOSED DEVELOPMENT IS IN KEEPING WITH SURROUNDING USES;**
- (v) THE PROPOSAL HAS NO UNACCEPTABLE EFFECT ON THE AMENITY AND CHARACTER OF EXISTING OR NEIGHBOURING ENVIRONMENTS BY VIRTUE OF NOISE, TRAFFIC CONGESTION, EXACERBATION OF PARKING PROBLEMS OR VISUAL INTRUSION;**
- (vi) THE PROPOSAL DOES NOT HAVE AN UNACCEPTABLE IMPACT ON GOOD QUALITY AGRICULTURAL LAND (GRADES 1, 2 OR 3a), ON AREAS OF ATTRACTIVE LANDSCAPE OR HIGH QUALITY TOWNSCAPE OR ON AREAS OF HISTORICAL, ARCHAEOLOGICAL, ECOLOGICAL, GEOLOGICAL OR GEOMORPHOLOGICAL IMPORTANCE;**
- (vii) OPEN SPACE IS PROVIDED IN ACCORDANCE WITH THE COUNCIL'S APPROVED STANDARDS;**
- (viii) THE PROVISION OF CAR PARKING AND AMENITY SPACE IS IN ACCORDANCE WITH THE COUNCIL'S APPROVED GUIDELINES;**
- (ix) ADEQUATE COMMUNITY AND UTILITY SERVICES EXIST, ARE REASONABLY ACCESSIBLE OR CAN BE READILY OR ECONOMICALLY PROVIDED.**

FOR THE PURPOSE OF THIS POLICY THE RURAL VALE IS DEFINED AS BEYOND THE SETTLEMENTS OF BARRY, PENARTH, LLANDOUGH (PENARTH), DINAS POWYS AND SULLY.

4.4.88 Planning Policy Wales 2002 section 9.2 states that in rural areas, special provision for affordable housing may be considered to help ensure the viability of the local community. The release of any small housing sites to meet local housing needs as



an exception to the policies for general housing provision must be fully justified in terms of meeting an identified local need for such housing. Sites that are proposed must also meet all the other criteria against which normal housing developments would be judged.

- 4.4.89** The terms “affordable housing” or “affordable homes” are used in the Technical Advice Note (Wales) 2 “Planning and Affordable Housing” to encompass both low cost market and subsidised housing (irrespective of tenure, exclusive or shared ownership, or financial arrangements) that will be available to people who cannot afford to occupy houses generally available on the open market.
- 4.4.90** The Technical Advice Note (TAN) goes on to say that the Government's wish to encourage diversity of housing tenure, advocated in the 1995 Housing White Paper, applies equally to affordable housing delivered through the planning system.
- 4.4.91** In respect of rural exception sites the TAN states that these can provide “a small but important additional source of affordable housing in rural areas to meet the needs of local people”. Such sites will be released as an exception to normal plan policies, should be located within or adjoining existing villages, and should be regarded as additional to the provision of housing for general demand. The TAN goes on to state that it is not envisaged that the scale of provision of affordable housing on land which would not normally receive planning permission for housing will be large or such as to unbalance the pattern of settlements in the community.
- 4.4.92** The above policy sets out criteria against which rural exceptions proposals will be judged. The Council is to undertake a rural needs housing survey during 1998/9. Pending its publication applicants will need to establish that there is an identified local need for affordable housing in the area.

POLICY HOUS 14 - GYPSY CARAVANS

PROPOSALS FOR THE USE OF LAND FOR THE SITING OF RESIDENTIAL CARAVANS OCCUPIED BY GYPSIES WILL ONLY BE PERMITTED IF ALL OF THE FOLLOWING CRITERIA ARE MET:

- (i) THE PROPOSAL DOES NOT HAVE AN UNACCEPTABLE EFFECT ON THE AMENITY OR CHARACTER OF NEARBY AREAS BY VIRTUE OF NOISE, TRAFFIC CONGESTION, EXACERBATION OF TRAFFIC CONGESTION OR PARKING PROBLEMS;**
- (ii) THE PROPOSAL DOES NOT HAVE AN UNACCEPTABLE EFFECT ON THE INTERESTS OF AGRICULTURE, CONSERVATION AREAS OF ECOLOGICAL, GEOLOGICAL, GEOMORPHOLOGICAL AND WILDLIFE IMPORTANCE OR LANDSCAPE PROTECTION;**
- (iii) THE PROPOSAL HAS A SAFE VEHICULAR ACCESS;**
- (iv) SATISFACTORY LANDSCAPING IS PROVIDED;**
- (v) ADEQUATE COMMUNITY AND UTILITY SERVICES EXIST AND ARE REASONABLY ACCESSIBLE OR CAN BE READILY AND ECONOMICALLY PROVIDED.**

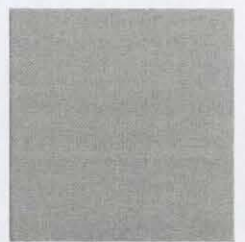
**HOUSING****POLICY 3**

LAND WILL BE MADE AVAILABLE FOR AN ADDITIONAL 6079 DWELLINGS BETWEEN 1998 - 2011. THIS PROVISION WILL BE MET BY:

- (i) THE PROVISION OF INFRASTRUCTURE AND SERVICES FOR THE DEVELOPMENT OF SITES WITH PLANNING PERMISSION FOR HOUSING;**
- (ii) THE REDEVELOPMENT OF SUITABLE SITES IN THE URBAN AREAS OF BARRY, PENARTH AND RHOOSE;**
- (iii) THE REPLACEMENT OF UNFIT AND SUBSTANDARD HOUSING;**
- (iv) THE DEVELOPMENT OF A RANGE OF SITES IN THE SOUTH EASTERN PART OF THE VALE OF GLAMORGAN WITHIN AND ADJOINING BARRY, PENARTH AND RHOOSE, TO BE IDENTIFIED IN PART II;**
- (v) THE DEVELOPMENT OF MINOR SITES IDENTIFIED IN PART II;**
- (vi) THE MAINTENANCE, REHABILITATION AND IMPROVEMENT OF EXISTING HOUSING STOCK, THE CONVERSION OF SUITABLE EXISTING DWELLINGS AND THE CHANGE OF USE OF SUITABLE STRUCTURES TO PROVIDE ADDITIONAL MODERN HOUSEHOLD UNITS; AND**
- (vii) AFFORDABLE HOUSING FAVOURED AT APPROPRIATE LOCATIONS AND IN ADDITION, THE PROVISION OF AFFORDABLE HOUSING ON APPROPRIATE SMALL SITES OUTSIDE OF THE GENERAL HOUSING ALLOCATION.**



QUESTION 22h

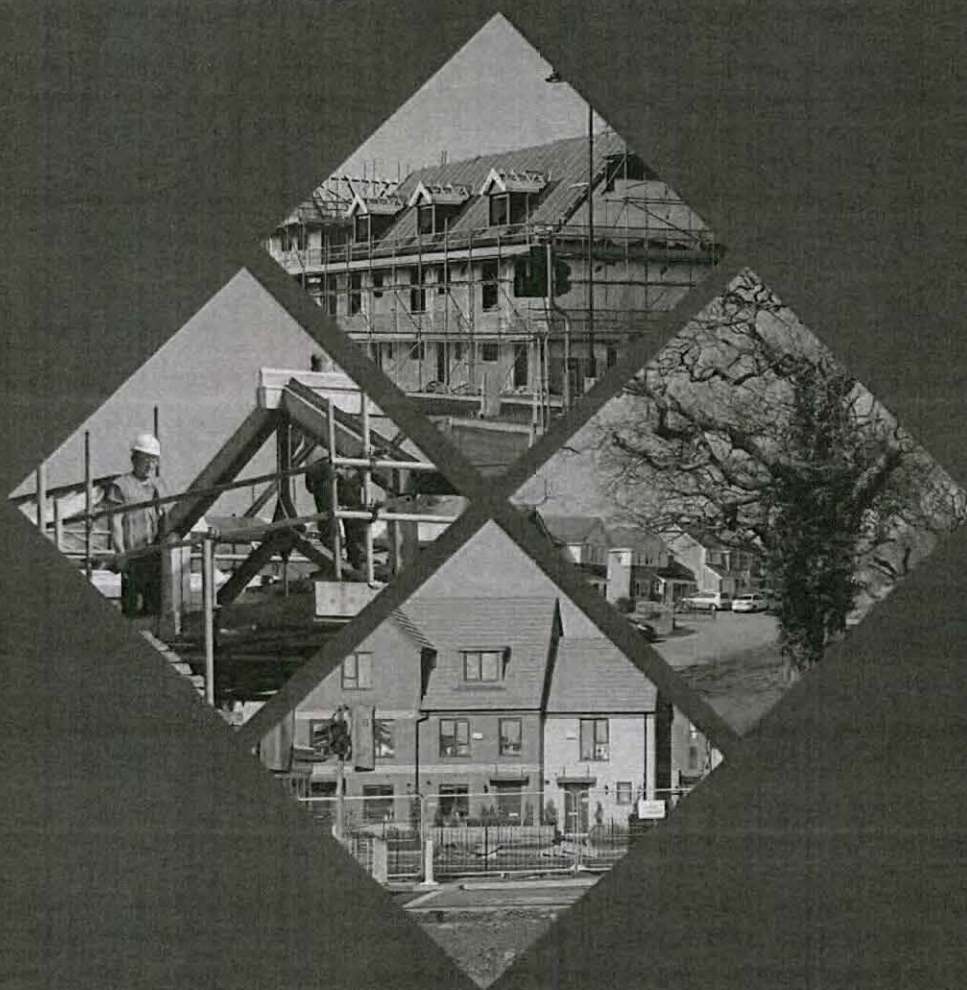


QUESTION
22h



Vale of Glamorgan Local Development Plan 2011-2026

Affordable Housing



Draft Supplementary
Planning Guidance

2015



Local
Development
Plan

Cynllun
Datblygu
Lleol

THE VALE OF GLAMORGAN COUNCIL

DRAFT AFFORDABLE HOUSING

SUPPLEMENTARY PLANNING GUIDANCE

NOVEMBER 2015

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1. Introduction

1.1 The purpose of this Supplementary Planning Guidance (SPG) is to set out the Council's approach to delivering affordable housing through the planning system. It sets out the Council's planning requirements and mechanisms for securing and delivering affordable housing within the Vale of Glamorgan.

1.2 This SPG updates and replaces the Council's previous Affordable Housing SPG (2006) and has been produced to support the policies of the Vale of Glamorgan Local Development Plan (LDP) which address the affordable housing needs within the Vale of Glamorgan as evidenced in the Council's latest Local Housing Market Assessment (LHMA 2015), and Affordable Housing Viability Assessment (AVHA 2015).

1.3 The SPG provides guidance on:

- The Council's requirements for affordable housing, including level of provision, type, tenure, size and standards of affordable housing sought from housing developments;
- The use of Section 106 agreements to secure affordable housing provision;
- The Council's approach to off-site provision of affordable housing and financial contributions;
- How issues surrounding development viability may be taken into account in respect of affordable housing provision; and
- The Council's approach to rural exception sites for affordable housing.

1.4 The SPG also summarises the key sources of evidence used to inform the Council on current levels of affordable housing and viability assessments used to justify the affordable housing contributions set out in the LDP and SPG.

Status of this Guidance

1.5 The SPG has been prepared as background evidence to the forthcoming Public Examination of the Vale of Glamorgan Local Development Plan. Formal consultation in accordance with the Council's protocol for the preparation and adoption of SPG will be undertaken following adoption of the LDP. The SPG may be used as a material consideration for Development Management decisions, in accordance with the Cabinet Report dated 14th December 2015.

2. National Policy Context

2.1 The National Planning Policy context for the provision of affordable housing through the planning system is set out in Planning Policy Wales (PPW¹) and Technical Advice Note 2 (TAN) Planning for Affordable Housing (June 2006). Further advice is provided in 'Delivering Affordable Housing Using Section 106 Agreements – Practice Guidance' (2008) and 'Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update' (2009).

2.2 PPW highlights the important contribution that affordable housing makes to community regeneration, social inclusion and in the development of sustainable communities. It requires

¹ Planning Policy Wales Edition 7 – August 2014

Local Planning Authorities (LPAs) to have full understanding of the level of affordable housing need within their area, alongside development viability and the availability of public subsidy.

2.3 Paragraphs 9.2.16 and 9.2.17 set out the requirements for development plans in respect of the provision of affordable housing:

- *Development plans must include **an authority-wide target for affordable housing** (expressed as numbers of homes) based on the LHMA and identify the expected contributions that the policy approaches identified in the development plan (for example, site thresholds, site specific targets, commuted sums and affordable housing exception sites) will make to meeting this target. The target should take account of the anticipated levels of finance available for affordable housing, including public subsidy, and the level of developer contribution that can be realistically sought. In principle all new market housing may contribute to meeting the need for affordable housing.*
- *In their development plan local planning authorities should include either **site thresholds** or a combination of thresholds and **site-specific targets**. Local planning authorities should set site capacity thresholds for residential developments above which a proportion of affordable housing will be sought from developers. This applies both to sites specifically allocated in the development plan and to unallocated sites and will normally take the form of on-site affordable housing contributions. Site specific targets are indicative affordable housing targets for each residential site and for each mixed-use site which includes a residential component. For sites which fall below the site threshold local planning authorities may secure commuted sums using a section 106 agreement. Commuted sums should be used by the local planning authority solely for facilitating or providing affordable housing.*

2.4 In preparing this SPG the Council has taken into account the latest affordable housing viability work that supports the site capacity thresholds and targets contained within the SPG, consistent with the affordable housing requirements of the LDP.

3. Affordable Housing Need in the Vale of Glamorgan

3.2 The Vale of Glamorgan Local Housing Market Assessment (2015) provide the latest evidence on affordable housing need, identifying a net annual need for 559 Affordable Housing Units, comprising 331 social rented units and 228 units of intermediate housing, with the latter split between 115 low cost home ownership (LCHO) dwellings and 113 intermediate rented dwellings. The greatest need is for one and two bedroom properties, across all areas of the Vale of Glamorgan, although in some areas the LHMA identifies a requirement for 3 and 4 bedroom properties.

3.3 In terms of spatial distribution, there is a general need for affordable housing across the Vale of Glamorgan, with the highest areas of need identified as Barry, Penarth and Llandough, followed by Llantwit Major, Dinas Powys, Cowbridge, Rhoose, Sully, St Athan, Wenvoe, Peterston Super Ely, Llandow/Ewenny and St Bride's Major (Table 1).

AREA	SOCIAL HOUSING	INTERMEDIATE RENT	LCHO	Total
Barry	66	33	50	149
Cowbridge	25	9	5	39
Dinas Powys	24	8	6	38
Llandow/Ewenny	8	2	2	12
Llantwit Major	26	6	9	41
Penarth & Llandough	101	30	21	152
Peterston-Super-Ely	8	2	2	12

Rhose	17	8	6	31
St. Athan	11	1	8	20
St. Bride's Major	7	5	1	13
Sully	24	4	5	34
Wenvoe	14	4	0	18
Vale of Glamorgan	331	113	115	559
	70%	14%	16%	100%

4. Planning Requirements for Affordable Housing in the Vale of Glamorgan

4.1 The Council's policy on planning obligations is set down in Policy MG4 (* as proposed follow Focused Changes Consultation 2015) of the Vale of Glamorgan LDP: Community Infrastructure and Planning Obligations which states:

POLICY MG 4 - AFFORDABLE HOUSING

RESIDENTIAL DEVELOPMENTS (INCLUDING MIXED USE SCHEMES) WILL BE REQUIRED TO CONTRIBUTE TO MEETING AFFORDABLE HOUSING NEED AND SHOULD MEET THE LEVELS OF AFFORDABLE HOUSING SET OUT BELOW:

30% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- BARRY.

35% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- LLANTWIT MAJOR ;
- RHOOSE; AND
- ST ATHAN.

40% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 1 DWELLING OR MORE; OR THE CONVERSION OF EXISTING BUILDINGS RESULTING IN A NET GAIN OF 2 OR MORE DWELLINGS IN:

- COWBRIDGE;
- DINAS POWYS;
- LLANDOUGH;
- PENARTH;
- SULLY;
- WENVOE;
- THE MINOR RURAL SETTLEMENTS; AND
- THE RURAL VALE OF GLAMORGAN.

*** ON SITES OF 4 DWELLINGS AND BELOW THE COUNCIL WILL SEEK EITHER THE ON SITE PROVISION OF AFFORDABLE HOUSING OR A COMMUTED SUM TOWARD THE PROVISION OF AFFORDABLE HOUSING. WHERE COMMUTED SUMS ARE REQUIRED THESE WILL BE SECURED IN ACCORDANCE WITH THE COUNCIL'S AFFORDABLE HOUSING SUPPLEMENTARY PLANNING GUIDANCE.**

THE PROVISION OF AFFORDABLE HOUSING WILL BE NEGOTIATED ON A SITE-BYSITE BASIS TAKING INTO ACCOUNT THE EVIDENCED VIABILITY OF THE DEVELOPMENT. CONTRIBUTIONS WILL BE MADE IN ACCORDANCE WITH THE REQUIREMENTS SET OUT IN THE COUNCIL'S AFFORDABLE HOUSING SPG, WHICH PROVIDES GUIDANCE ON VIABILITY AND THE CIRCUMSTANCES UNDER WHICH CONTRIBUTIONS MAY BE VARIED OR REVIEWED.

4.2 Policy MG4 shall apply to all self-contained dwellings (i.e. all uses that fall within class C3 the Use Class Order) including C3 residential elements of mixed use schemes as well as self-contained units for people of pensionable age (e.g. 'retirement' apartments), and supported/sheltered housing or extra care developments where these are not affordable housing in their own right i.e. developed by a Registered Social Landlord (RSL).

4.3 Where the percentage of affordable housing does not equate to a whole number, the requirement will be assumed to be a minimum and therefore, the figure should be rounded up to the nearest whole number, unless it is demonstrated that the requirement undermines the viability of the development, which is considered in more detail below. The approach on smaller sites is explained below at section 6.

4.4 Development Viability as set out in 6 below will be considered for any application triggering an affordable housing contribution. If a development viability appraisal satisfactorily demonstrates that a reduced contribution should be sought, then this will be considered as set out in section 6.

4.5 The Council application of Policy MG4 will be undertaken on the basis of the following postcode areas contained in Table 2, and were originally established in the Council's Affordable Housing Viability Assessment (2010). The areas reflect the viability within each of the housing submarket area postcodes (Figure 1 page 5). In cases where a development proposal either abuts or crosses 2 postcode areas the Council shall apply the higher policy requirement to the whole site unless site specific viability evidence demonstrates otherwise.

Table 2: Affordable Housing Requirement by Sub Housing Market Area Postcodes

Sub Market Area	Sub Market Area Postcodes	Threshold	Requirement
Rural	CF7 17, CF35 5, CF35 0, CF32 0, CF72 8, CF72 9	Net gain of 1 dwelling and above*	40%
East Vale	CF5 6, CF5 5, CF11 8		
Penarth	CF64 1, CF64 2, CF64 3, CF64 4, CF65 5		
Rural South & Coast	CF61 1, CF61 2, CF62 3, CF62 4	Net gain of 5 dwellings and above	35%
Barry East & West	CF62 5, CF62 6, CF62 7, CF63 1, CF63 2, CF63 3, CF64 4, CF62 8, CF62 9	Net gain of 5 dwellings and above	30%

*Excluding the subdivision of one dwelling into two flats and barn conversions.

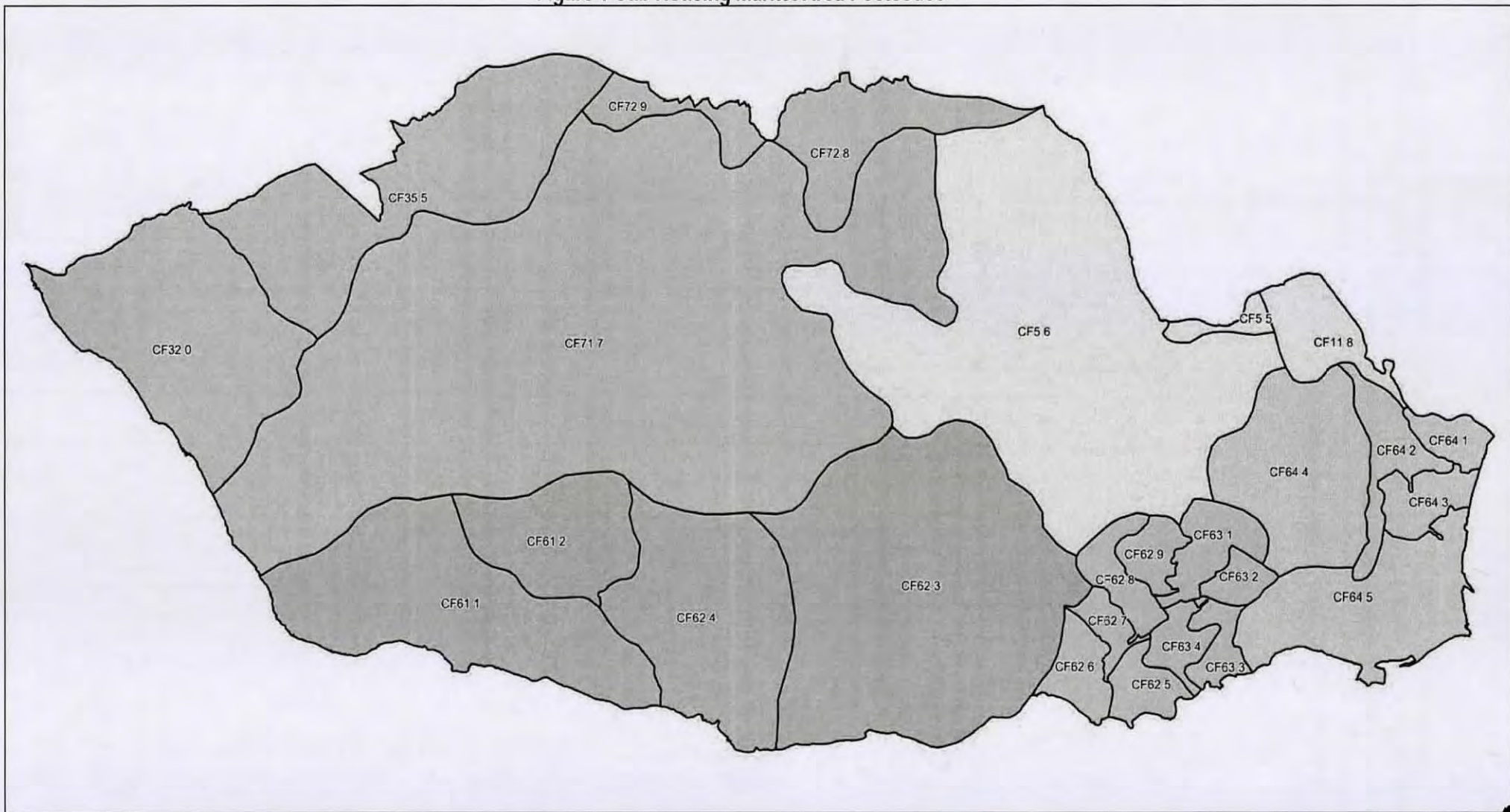
Subdivided and phased development sites

4.6 Where a site is subdivided, the Council will treat such sites in their totality if the schemes, together, would accommodate more than the relevant number of dwellings. Under such circumstances, each subdivided plot will be required to provide a contribution towards the relevant obligation proportionate to its size and relative to the overall site requirements for affordable housing. If sites are proposed in such a way as to undermine the delivery of affordable housing, this could lead to a refusal of planning permission. For outline planning applications a commitment to the delivery of affordable housing will be necessary at this stage and will be secured through a Section 106 Agreement, and then detailed in any subsequent Reserved Matters application.

4.7 Where developments are proposed which fall short of the threshold by up to 10%, it will be necessary for the Local Planning Authority to consider whether this is deliberate underdevelopment of the site to avoid the affordable housing threshold. If so, there is planning case law to support a stance that the requirement should be applied.

4.8 As a general rule LDP Policy MD 7 (Housing Densities) sets out that a minimum density of 30 dwellings per hectare will be considered appropriate to most sites, with a lower density of 25 dwellings per hectare being appropriate in the minor rural settlements. However, site specific or contextual constraints may make lower densities necessary and this will need to be considered by the Local Planning Authority on a site by site basis.

Figure 1-Sub Housing Market Area Postcodes



Funding arrangements

4.9 Traditionally, the funding for the delivery of subsidised affordable housing has come from the Social Housing Grant (SHG) provided by the Welsh Government (WG). However, as a result of the increased levels of affordable housing need across Wales and reduced levels of public subsidy available, the WG is now placing greater emphasis on the planning system to deliver affordable housing through developer subsidy.

4.10 Consequently, in order to satisfy the Council's affordable housing requirements, developers and landowners should, in the first instance assume that no grant or other funding sources are available. Indeed the Council's viability assessment tested development viability with zero grant availability, and therefore the Council considers that in most cases the absence of grant funding should not be an issue with regard to development viability in the Vale of Glamorgan.

4.11 Based on up to date evidence of housing need in the Vale of Glamorgan, the AHVA assumed a tenure split of 70% social rented housing and 30% intermediate housing, which may be intermediate rent or low cost home ownership. Both tenures are delivered differently and require a different amount of developer subsidy, as set out below.

4.12 The Council will use the WG's Acceptable Cost Guidance (ACG), which sets out the cost at which RSLs should expect to build **social rented housing** for within the Vale of Glamorgan. These are based on the cost of construction, including services and constructed in accordance with the Welsh Housing Quality Standards² for social housing. The developer will be required to subsidise the affordable housing units at a rate of 58% of ACG in line with the level of funding otherwise secured through SHG. In other words, the price an RSL will be expected to purchase a social rented property for will be no more than 42% of the relevant ACG figure for that type of property in that location. ACG figures are published by the Welsh Government and are available on their website³.

4.13 **Intermediate properties** are usually purchased at 70% of the Open Market Value (OMV) of the relevant property which is usually determined once the OMV of the units can be reasonably established on the development. Such matters should be agreed between the developer, the RSL and the Council in light of appropriate evidence. Therefore, the level of developer subsidy for intermediate properties is usually 30% OMV for the relevant property.

Section 106 Agreements

4.10 Affordable Housing will normally be secured by means of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended). These are usually between a local planning authority and developers or land owners and specify that a proportion of the dwellings to be built on site are built and thereafter maintained as affordable housing. Section 106 agreements run with the land as a land charge and apply to successive owners.

4.11 Section 106 agreements will normally specify:

- The number or percentage, type and tenure mix of affordable homes to be provided on the site;

² <http://gov.wales/topics/housing-and-regeneration/housing-quality/welsh-standard/?lang=en>

³ <http://gov.wales/docs/desh/publications/150401-acceptable-cost-guidance-en.pdf>

- The amount and timing of any financial contribution to be paid in lieu of on-site delivery (if appropriate);
- The control and management of the housing to ensure it is secured in perpetuity which will usually be by the transfer of the affordable homes to a registered social landlord and any hand-over arrangements;
- The occupancy of the housing which will be reserved for people in housing need according to criteria determined by the Welsh Government and the Council;
- The location and phasing of affordable housing provision in relation to the development of the site and any trigger points when affordable housing must be provided; and
- Arrangements for the fall-back provision of financial contributions in lieu of on-site provision in exceptional circumstances and arrangements for unusual circumstances such as mortgage default.

Mix and Types of Affordable Housing

House Types

4.12 The Council's LHMA highlights the need to provide a range of dwelling sizes across the Vale of Glamorgan, with the greatest current demand being for 1 and 2 bedroom properties. Some of this demand can be attributed to Central Governments ongoing welfare reforms and the removal of the Spare Room Subsidy, more commonly known as the "Bedroom Tax", which has significantly increased the need for one and two bedroom properties, to allow people to downsize from unsuitable and increasingly unaffordable properties. The Council will continue to seek to provide a mixture of dwelling sizes and, in some circumstances, may look to negotiate a proportion of dwellings suitable for older persons such as bungalows or supported housing. However, the house type and mix should also reflect the overall house type mix of the development proposed such that the affordable housing integrates well with the overall development.

4.13 In terms of the types of properties developed the Council's preference is likely to be for two bedroom properties to be provided in the form of houses since flats are largely unsuitable to meet the needs of households with children. Where smaller 1 or 2 bedroom properties are located within flatted developments, these should be provided in the form of walk up flats as they offer long term sustainability for tenants. In order to establish the actual dwelling mix and type, it is recommended that developers seek advice from the Council's Housing Strategy Team at an early stage so that the tenure and mix preferences can be established as part of the application process.

Tenure Mix

4.14 The Council's LHMA revealed that the greatest affordable housing tenure need within the Vale of Glamorgan is Social Rented, followed by Low Cost Home Ownership (LCHO) and Intermediate Rent. Accordingly, the Council will usually require the affordable housing tenure to be provided at a ratio of 70% social rented, 30% low cost home ownership/intermediate rent consistent with the local housing needs identified in the Council's LHMA. The Council's AHVA considered this tenure ratio when establishing the impact of affordable housing on development viability across the Vale of Glamorgan.

However, on smaller sites where the affordable housing provided would be a single unit, the Council will require this to be social rented dwelling.

4.15 Social Rented Housing is rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime.

4.16 Intermediate Housing is that which is available to either rent or purchase at prices above those of social rent, but below market prices, providing an important role in bridging the gap between social and affordable rented homes and owner occupation, hence the term "intermediate". This tenure includes Intermediate Rented dwellings and Low Cost Home Ownership dwellings.

4.17 Intermediate Rented Dwellings are generally set at 80% of local open market rents and are inclusive of service charges.

4.18 Low Cost Home Ownership can take the form of shared equity, shared ownership and HomeBuy schemes. A number of RSL's within the Vale of Glamorgan are also members of the "Homes Within Reach Scheme" a shared equity home ownership scheme for first time buyers. These schemes enable a household to purchase an equity share (initially a minimum 70%) and the remaining equity is retained by an RSL, although purchasers are offered the opportunity to purchase the property outright in the future, known as "staircasing". To enable the mortgage to be at an affordable rate, the purchase price of the LCHO unit is discounted against open market values

4.19 It is vitally important to the Council for all affordable housing secured through the planning system to be made financially accessible particularly to those household on lower incomes who cannot afford open-market housing. The Council shall therefore require open market housing to be discounted at 30% below open market value. In areas of the County where there is a particularly pronounced affordability problem, with higher house price to income ratios, developers will be encouraged to consider setting the price at a lower level of market value. The legal agreement will ensure the same discount from full price is used in all future sales of the property.

5 Delivering Affordable Housing Provision & Commuted Sums

Onsite and Offsite Provision

5.1 At paragraph 12.5 TAN 2 states: "The strong presumption is that affordable housing secured through planning obligations will be provided on the application site so that it contributes to the development of socially mixed communities. Development plans (or SPG) should set out the exceptional circumstances where provision may not need to be on an application site (for example where the management of the affordable housing cannot be effectively secured)."

5.2 In line with the WG advice, the Council will normally expect developments to deliver affordable housing on development sites, usually in the form of units built for and transferred to the Council or a RSL, unless there are exceptional circumstances why this cannot be achieved, such as:

- Insurmountable development viability issues caused or exacerbated by the affordable housing requirements;
- Site specific circumstances which would make affordable housing delivery and/or management extremely difficult; or
- There is a demonstrable local over-supply of affordable housing and/or severe shortage of affordable housing elsewhere in the Local Authority Administrative Area that could be best

catered for through off-site contributions to deliver affordable housing in the areas of highest need.

5.3 Where it has been established (see viability section below) that affordable housing cannot (or should not) be secured on site, the second preferred approach will be off-site provision that is where the equivalent amount of affordable housing is delivered on an alternative suitable site. In such cases, a site should be identified, have secured planning permission and be delivered within an agreed timescale to coincide with the delivery of the 'parent' market housing site. Developers will be expected to demonstrate that they have made reasonable efforts to identify appropriate alternative sites for the delivery of off-site affordable housing in the area.

Commuted Sums

5.4 Where the delivery of affordable housing cannot readily be delivered either on or offsite, a financial contribution in lieu of on-site provision may be accepted and would need to be secured through a Section 106 Agreement. Generally on sites of 5 or more dwellings, financial contributions will only be acceptable where it has been robustly justified by sound planning reasons as set out above.

Establishing the value of the commuted sum payment

5.5 Commuted sums will be directly linked to what the contribution would have been if the affordable dwellings would have been on site, and calculated using ACG, this being the notional development cost of an affordable home, and includes land acquisition. For the Vale of Glamorgan the ACG band is 4 within Barry, Rhoose and St Athan areas and band 5 elsewhere. The ACG value will reflect the type of market dwellings being proposed on the site e.g. 2-bed flats or 4-bed houses.

5.6 Where the Council agrees that a commuted sum payment is appropriate this will be calculated on the basis of the below formula:

ACG £ per unit x % SHG x N = £ financial contribution Where:

- ACG= Acceptable Cost Guidance per dwelling, related to dwelling type and occupancy (e.g. 2 person 1 bed flat) for different cost bands in Wales, being the current ACG published by the Welsh Government. For the Vale of Glamorgan, the ACG bands are 4 and 5.
- % SHG= Social Housing Grant rate. This is normally expressed as the total proportion of actual scheme costs that will be funded by WAG.
- N= Number of affordable housing units (at parity and rounded to the nearest whole unit).

5.7 On sites of 1 or 2 dwellings a commuted sum it is more likely in a practical sense to deliver affordable housing through payment of a financial contribution in lieu of on-site provision. On sites between 3 and 9 dwellings, the Council will expect some affordable housing to be provided on site, with financial contributions to be paid where the number of dwellings does not equate to a whole number.

Barry

5.8 Within the Barry, Llantwit Major, St. Athan and housing market areas the Council's Affordable Housing policy requires all residential sites resulting in a net gain of 5 or more dwellings to provide an element of affordable housing:

On sites between 5-9 dwellings, requiring 30%, this would work as follows:

- 5 dwellings - 4 market units and 1 affordable unit plus contribution (AHC x 0.5)
- 6 dwellings - 5 market units and 1 affordable unit plus contribution (AHC x 0.8)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.1)
- 8 dwellings - 6 market units and 2 affordable unit plus contribution (AHC x 0.4)
- 9 dwellings - 7 market units and 2 affordable unit plus contribution (AHC x 0.7)

Llantwit, Rhoose, St. Athan

5.9 On sites between 5-9 dwellings, requiring 35%, this would work as follows:

- 5 dwellings - 4 market units and 1 affordable unit plus contribution (AHC x 0.75)
- 6 dwellings - 4 market units and 2 affordable units plus contribution (AHC x 0.1)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.45)
- 8 dwellings - 6 market units and 2 affordable unit plus contribution (AHC x 0.8)
- 9 dwellings - 6 market units and 3 affordable unit plus contribution (AHC x 0.15)

Rural, East Vale and Penarth

5.10 Within the Rural, East Vale and Penarth housing market areas the Council's Affordable Housing policy requires all residential sites resulting in a net gain of 1 or more dwellings to provide an element of affordable housing:

In areas with a 40% requirement, this would work as follows:

- 1 dwelling - financial contribution only (AHC x 0.4)
- 2 dwellings - financial contribution only (AHC x 0.8)
- 3 dwellings - 2 market units and 1 affordable unit plus contribution (AHC x 0.2)
- 4 dwellings - 3 market units and 1 affordable unit plus contribution (AHC x 0.6)
- 5 dwellings - 3 market units and 2 affordable units
- 6 dwellings - 4 market units and 2 affordable units plus contribution (AHC x 0.4)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.8)
- 8 dwellings - 5 market units and 3 affordable unit plus contribution (AHC x 0.2)
- 9 dwellings - 6 market units and 3 affordable unit plus contribution (AHC x 0.6)
- 10 dwellings - 6 market units and 4 affordable units

Tenure split for on-site provision

5.11 In term of on-site requirements for small sites, the tenure split for small sites would reflect the 70:30 tenure split as elsewhere, as follows:

- 1 dwelling = social rented
- 2 dwellings = 1 x social rented, 1 x Intermediate
- 3 dwellings = 2 x social rented, 1 x Intermediate
- 4 dwellings = 3 x social rented, 1 x Intermediate

How will commuted sums be spent?

5.12 At paragraph 12.5 TAN 2 states: "any off-site provision of affordable housing or a financial contribution in lieu of on-site provision must contribute towards the objective of providing affordable housing. This could be achieved by bringing existing housing back into use for affordable housing or supporting the delivery of affordable housing on another site (either for 100% affordable housing or another site where affordable housing is to be provided)."

5.13 The Council will seek to make the most effective use of any financial contributions for affordable housing, taking into account the availability of suitable opportunities at the time they are received. The following list of potential spending options is not in order of priority nor is it exhaustive, and may change over time, depending on needs and opportunities. Affordable housing contributions may be used to:

- Support the renewal of existing Council housing stock;
- Support specific initiatives to regenerate the existing housing stock, e.g. empty property grants.
- Support Registered Social Landlords (RSLs) or the Council to purchase suitable properties on the open market and adapt them for affordable housing
- Fund the purchase of land for development by a RSL or the Vale of Glamorgan Council for affordable housing; and
- Support site development and / or construction costs on land already owned by the Council or RSL - to bring forward development and/or improve tenure mix and enhance affordability for rental and affordable home ownership options.

5.14 The Council may combine financial contributions from different sites if appropriate and will spend contributions in the way that best achieves the Council's and local communities' priorities for affordable housing. The number of units resulting from expenditure may be more or less than the units used to calculate the contribution as dwelling types, tenure, specifications and other aspects will vary from scheme to scheme.

5.15 Section 106 agreements will usually include a clause requiring the Council to refund any unexpended financial contributions to the developer within a set timeframe. For affordable housing contributions, this will normally be a minimum of 10 years from the date of receipt. This reflects the complex nature of delivering affordable housing, including the time taken to identify appropriate sites and to identify a partner for delivery and future management of the affordable housing.

6. Reviewing Development Viability

6.1 Planning Obligations and affordable housing will have an impact on land values and landowner expectations, therefore the Council will expect that applicants have considered in full the overall cost of development, including the required planning obligations and any abnormal costs, when negotiating the purchase of land. The Council has developed this document alongside the Planning Obligations SPG to enable Developers to undertake this assessment. In addition the Council offers pre-application advice to Developers to fully establish the policy position in respect of these matters.

6.2 Where a site is still under option it will always be expected that the policy requirements can be met provided that the scheme is not abnormally costly or abnormally under value for the area. These costs should be reflected in the price that the developer purchases the site for so ensuring that the proposed development site is economically viable to meet the Council's affordable housing requirements. If

there is any doubt about viability on a particular site, it will be the responsibility of the developer to offer the land owner less for the site, or to maximise the mix on site to achieve policy prior to entering into discussions with the Council.

6.3 In setting its planning policies for affordable housing and other planning obligations, the Council has undertaken strategic viability assessments which demonstrate that, in most cases, the Council's policy requirements are achievable and realistic. This will be the starting point for negotiations and therefore, the burden of proof shall lie with the developer to demonstrate why there are extraordinary viability constraints on their development.

6.4 The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements, A Guidance Update (2009) states that Local Planning Authorities should be clear about those situations where the Council will be willing to accept reduced planning obligations or affordable housing contributions and notes that in some cases it may be appropriate for an authority to refuse to agree these (paragraph 5.4 refers). The Council considers that reduced planning obligations or affordable housing contributions will only be justified on the grounds of development viability where there is sufficient planning merit weighing in favour of the development, such as:

- The delivery of a strategically important development site in the context of the Local Development Plan
- There are unusual or extraordinary site constraints affecting viability that must be overcome for the site to be developed and the development would be in the wider public interest (e.g. protection of a listed building, contaminated land, urban renewal project etc.)
- The development itself is being used as a means of delivering / subsidising a mixed use, commercial or community project (in the public interest) which would not be deliverable without financial support

6.5 In order to demonstrate that a reduction in the affordable housing provided is absolutely, necessary to make a development financially viable and deliverable, the Council will require the applicant to undertake a full Development Viability Appraisal for assessment by the Council, which can then be used for negotiating a reduction in affordable housing or other planning obligations.

6.6 Before commencing with a site viability appraisal, the Council will require evidence from the developer that shows that they have fully considered ways that may reduce development costs and/or increase the scheme value to enable the scheme to deliver the required level of affordable housing. Such measures may include consideration of alternative site densities, dwelling mixes and tenure, site layouts, landscaping and construction specifications. Consultation with RSLs can also help ascertain design standards which will be expected for affordable units, which can help with developing accurate costs.

Development Viability Appraisal Requirements

6.7 The Council can only make sound judgments about site specific development viability on the basis of full and robust development appraisals. Therefore, the Council will require applicants to provide the following detailed information. The level of supporting evidence required (i.e. valuations, costs reports etc.) will depend upon how far the viability inputs deviate from acceptable parameters based on industry norms. Any 'assumptions' must be clearly explained and justified.

6.8 The evidence will be assessed on whether the figures prove that the scheme would be unviable if it were to meet all affordable housing and other planning obligation requirements. Where an applicant

wishes for some information to be kept confidential in the interests of commercial sensitivity this should be clearly stated and the submission will not be made publically available, though it will be referenced in Planning Committee reports if being relied upon to justify a departure from planning policy.

6.9 All information submitted will need to be independently verified by either a suitably qualified quantity surveyor with local market knowledge and/or the District Valuer, the cost of which should be borne by the developer. Information should be set out under the headings below so that this can be cross referenced back to the Wales Development Appraisal Toolkit. Developers should only provide those costs applicable to their development.

(i) General Requirements:

- The Council's policy requirements should be the starting point for applicants and viability appraisals should work backwards from this. The Council will expect land transactions to reflect policy, rather than the other way around.
- Evidence should be provided to show what consideration has been given to alternatives in order to improve viability. Such measures can include altering development densities, layout, dwelling tenure, and design and build specifications.

(ii) Development incomes / Revenues

Open Market Sales income.

Projected sales values should be evidenced by either a bespoke valuation provided by an independent chartered surveyor (RICS), using the red book valuation approach, or three local estate agent market appraisals specific to the unit type and location. Recent sales evidence of comparable development sites should be submitted in support of these assumptions.

Social Rented and Intermediate Tenure income.

Projected values of rented units to be sold to a RSL must be based on what an RSL would pay taking into account the maximum rent levels and reasonable costs associated with managing and maintaining the properties. In respect of LCHO the value of units to be sold to an RSL, will be required to take into account the relevant required discount percentage from open market value (as set out in section 5 of this SPG).

Any other potential revenues to the scheme, such as

- Grant/subsidy
- Ground rents
- Cross subsidy from a commercial element

(iii) Development costs

Cost estimates should be provided by a Quantity Surveyor or other suitably qualified professional. Build costs should be provided as £ per m2 of Gross Internal Area (GIA) and should cover sub and super structure. This will be different for different types of dwelling (e.g. flats compared with housing; conversion compared with new-build).

(iv) External works and infrastructure.

Site Preparation/Demolition – site preparation/prelims and a reasonable allowance for demolition is included within BCIS so additional cost should not be included in this section if BCIS data is used. If substantial demolition is required the costs should be evidenced by quotes.

- Roads and sewers
- Services (power, water, gas, telecommunications and IT)
- Strategic landscaping
- Off-site works
- Public open space
- Site specific sustainability initiatives
- Plot specific external works

(v) Professional fees.

These may include fees for planning application(s), land acquisition, architect, planning agent, quantity surveyor, building control and stamp duty.

(vi) Finance costs (including how these have been calculated).

Details of project finance, related to phasing of construction and sales, should be clearly set out. The proportion of the overall cost to be met by securing bank loans, and the rate of interest applicable to these, should be included in the open book assessment. Developer internal overheads– often included within developers return/profit, where shown as a separate item should be reflected in the projected profit margin.

(vii) Fees relating to the marketing and sale of the units.

These may include the reasonable costs of sales (e.g. marketing agent commission) and legal input for the sale or transfer of units. These costs must be benchmarked in line with current industry standards and phased appropriately.

(viii) Abnormal/exceptional development costs.

Any developer buying a site would be expected to undertake a proportionate amount of due diligence work to ensure that the price paid for the land reflects the prevailing conditions. Whilst the following may be considered as 'abnormal costs' the Council would expect the land transaction price to reflect these costs:

- demolition works - included in external works and infrastructure
- noise bunds
- knotweed removal
- decontamination
- archaeological and ecological surveys
- land stabilisation
- drainage and flood prevention measures

(ix) Build contingency.

This will not normally be allowed, but the Council will consider this where the applicant has made a contingency allowance for sales values.

(x) Land Value Benchmark and /or Land Acquisition Cost

The Council will need to agree with the applicant an appropriate Land Value Benchmark (LVB). Normally the LVB will be the Existing Use Value (EUV) of the site, although in some instances an AUV (Alternative Use Value) may be considered appropriate. A reasonable amount of uplift from EUV will be expected to incentivise a landowner to release land for development, and typically this would be expected to be between 10-20% more than existing use values.

Examples of EUV are agricultural value, or industrial value; typically £10,000 per hectare and £200,000 per hectare respectively in South Wales. The Council will consider the uplift and whether returns to land owner are competitive. Normally a 10 to 20 fold increase in value from agricultural is considered viable (Homes and Communities Agency Area Wide Viability Model).

The Council will be receptive to cases where an applicant has property evidence and existing use value. But this must be based on the current use value and not hope value for residential or any other use.

(xi) Developer margin / profit

The developer margin on open market units should be shown as a % of the Gross Development Value (GDV). Developer margin on affordable units should be shown as a % of costs. The level of developer profit will reflect the degree of risk to the developer. The required profit margin should be fully justified. For affordable units the level of profit should be significantly less than for open market units, to reflect the lower risk profile. Typically, the level of developer profit on the open market housing will be between 15% and 20% depending on the prevailing market conditions, the site specific circumstances and the degree of risk involved. Typically, the level of developer profit on the affordable housing would be 10-15%.

Where a developer is seeking a reduction in affordable housing or other planning obligations, they should be prepared to be flexible on the amount of developer profit and should not expect to protect a 20% profit margin at the expense of affordable housing or planning obligations. A balanced approach should be taken to have regard to both the commercial interests of the developer and the public interest being secured through planning obligations and affordable housing delivery.

(xii) Phasing

In some cases, a phased approach will be recommended. The anticipated build period should be stated, along with an estimate of projected sales values and projected development costs for the period of the build. The applicant should state whether the affordable housing or other planning obligation requirements have been front loaded in their appraisal.

Mechanisms for Dealing with Development Viability Issues

6.10 Following the independent validation of the evidence provided, the Council will assess the viability of the development against the land value benchmark under consideration. Where the Council is

satisfied that the development cannot meet the affordable housing requirement the Council will discuss with the developer the options available to achieve economic viability. Before exploring the potential for either off site provision or a commuted sum payment, the council will also consider the balance between seeking affordable housing and its other planning obligation requirements and wider strategic planning issues.

6.11 The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements, A Guidance Update (2009) identifies a range of mechanisms which aim to enhance scheme viability while guarding against the developer/landowner 'pocketing' an advantageous planning permission, which they implement when development viability improves. The Council endorses this guidance, which also states that reducing or otherwise altering planning obligations (including affordable housing requirements) should not be agreed without such mechanisms in place. Appropriate mechanisms include:

- Altering the affordable housing delivery on site, including the tenure mix or phasing which may assist to release early capital receipt;
- Re-phasing planning obligations;
- Reduced obligations associated with a time-limited permission;
- Reviewing obligations through the life of a permission; or
- A deferred payment arrangement.

6.12 The Council will seek to agree with developers, which is the most appropriate mechanism on a case by case basis.

7. Affordable Housing in Rural Areas

Rural Exceptions Affordable Housing

7.1 The Council recognises that communities need housing to meet their local housing requirements and in many of the small villages in the Vale of Glamorgan, it may only be possible to provide housing of an appropriate scale on sites outside the existing built up area, traditionally in the way in which settlement patterns have evolved to what they are today.

7.2 Consequently, within the smaller rural communities, where it would not normally be appropriate to develop housing because of limited availability of facilities and services, there may be circumstances where the provision of housing to meet a local need outweighs these factors.

7.3 Such proposals are commonly described as "rural exceptions housing", where permission is granted solely for affordable dwellings that are built to meet the housing needs of the immediate village or community ward within which the housing is proposed. Before the Council will grant planning permission for affordable housing on a rural exception site, it must therefore be satisfied that there is an evidenced need for affordable housing in the locality.

7.4 Additionally, the Council will expect rural exception sites to:

- Comply with local and national planning policy,
- Be of a scale appropriate to the size and character of the individual village concerned and the level of services and facilities available in the village
- Have reasonable access to services and facilities

- Demonstrate that the affordable housing could not reasonably be provided elsewhere on a site allocated for residential development
- Undertaken consultation with the community or ward council and local residents
- Be subject to a "local lettings and sales policy" developed in partnership with the local Community Council (see below), and remain affordable in perpetuity.

Cross-subsidised Rural Exceptions Housing

7.5 In exceptional circumstances, the Council may allow rural exception housing to include an element of market housing where it is clearly demonstrated that the market housing element is essential to the delivery of the affordable housing, by increasing the viability of the development and incentivise landowners to bring forward sites, rather than maximising development value.

7.6 In this regard proposals must be affordable housing led and the tenure mix of both the market and affordable dwellings are aligned with local need. Accordingly, it is expected that the market housing element should seek to address any particular shortages of property types and sizes locally. Such proposals will be restricted to sites of less than 10 dwellings and the housing mix strictly controlled to a ratio of at least 70% affordable dwellings to 30% market dwelling.

7.7 The Council will expect such proposals to involve a RSL so as to ensure that the affordable housing element of the scheme remains available to those in local need; at an affordable rate initially and in perpetuity; and is managed appropriately. Other providers may be considered if it can be demonstrated satisfactorily that the affordable housing will be retained as such in perpetuity.

Local Community Engagement

7.8 The Council will expect that all rural affordable housing proposals to be developed in partnership with the local community. This can be achieved through effective community engagement at the pre-application stage to take into account of the view of local residents and the community council as well as explore any alternatives and the earliest stages. When submitting a planning, applicants should provide a brief statement outlining the measures undertaken to engagement with the community and how the proposal has taken on board any feedback received.

7.9 Engagement with the Community Council may also provide the opportunity to discuss any specific housing needs of the community, as well as the scope of criteria to be considered in the local lettings criteria (see below) to enable priority for affordable housing to be given to existing residents and those who have a local connection to the area. In this regard, the Council has its own rural housing enabling officer who seeks to deliver rural exception sites, working alongside Community Councils, local communities and landowners and can assist in this process.

Local Connection Criteria and Cascade Arrangements

7.10 Affordable Housing in the Vale of Glamorgan is allocated via the Homes4U lettings scheme. Homes4U 'bands' applicants according to their housing need and members are then able to 'bid' for properties they wish to live in.

7.11 Within rural areas the Council uses a local letting criteria, developed in partnership with RSL's and the local Community Council's to identify the priorities that will be given to the allocation of affordable housing lettings and in the determining of what qualifies as a local connection. Local lettings and sales

policies will apply to all new affordable housing, including social housing and low cost home ownership properties developed in the rural Vale.

7.12 The purpose of the local connection criteria is to ensure that priority for affordable housing is given ensuring affordable housing meet the needs of the local resident population and wherever possible provide for the needs of the immediate community. For this reason, all rural schemes will be subject to a local connection policy.

7.13 In all cases relevant occupancy controls will be included within a section 106 legal agreement to ensure that the local connection criteria applies to initial and subsequent occupants.

Agricultural Workers and Rural Enterprise Dwellings

7.14 Where proposals for new dwellings in support of an agricultural business or rural enterprises are justified and found to satisfy the assessment tests of Technical Advice Note 6 Planning for Sustainable Rural Communities, it will be necessary to ensure that the dwellings are kept available for this need. Accordingly, the dwelling(s) shall be subject to occupancy conditions restricting occupation to those employed in either agriculture or a rural enterprises; and where it is shown that the dwelling is no longer required for such purposes, the dwelling will be made available to persons eligible for affordable housing under the Council's housing policies⁴.

8. Design Considerations

8.1 The Council is determined to ensure that affordable housing should not imply substandard accommodation, poor quality design or materials. Affordable housing should blend in with the neighbouring open market housing in order that they are integrated properly whilst providing quality and choice in the neighbourhood. Consequently, in order to facilitate greater social mix and enable a greater variety in building form and design, the different types of affordable houses will be dispersed about the site, in clusters of no more than 10 dwellings.

8.2 The identification of the affordable housing areas will be secured through a Section 106 agreement and where relevant require the involvement of a RSL at the outset to ensure that the completion and occupation of the affordable housing groups is phased in relation to the market housing.

8.3 In this regard, the ratio of market dwellings to affordable housing to be completed and available for occupation at any time should normally be no more than 3:1. This will ensure a phased development of a mixed and integrated development.

8.4 Attention should be given to the complementary policies contained within the LDP, relevant development briefs or other supplementary planning guidance (e.g. amenity standards and parking standards). This will ensure that the design, layout and development standards that apply to other residential development proposals are maintained within affordable housing schemes, are appropriate to the residential character of the area, and provides a satisfactory standard of accommodation.

Development Quality Requirements (DQR)⁵

⁴ Technical Advice Note 6 Planning for Sustainable Rural Communities (paragraph 4.13.1)

⁵ <http://gov.wales/topics/housing-and-regeneration/publications/devqualityrequire/?lang=en>

8.5 All new and refurbished housing built for RSLs, including LCHO, irrespective of whether Social Housing Grant is received must be designed and built in accordance with the standards set out by the Welsh Government 'Development Quality Requirements: Design Standards and Guidance, July 2005'. DQR cover issues such as space, standards, accessibility, energy efficiency and security. The Council shall require does not apply to low cost home ownership products which do not receive Social Housing Grant.

Secured By Design⁶

8.6 The WG requires all homes funded by Social Housing Grant to be built to "Secured by Design" standards. These are provided in the Assembly's Design Quality Requirements and Standard Contract Documentation. When RSLs are considering developing a site, they are required to discuss at the outset how to incorporate Secured by Design principles with their Police Force Architectural Liaison Officer.

⁶ <http://www.securedbydesign.com/industry-advice-and-guides/>

APPENDIX TEN

Amgylchedd a Datblygu Cynaliadwy
Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Mr Laurence Forse
Harmers Limited
39 Lambourne Crescent
Cardiff Business Park
Llanishen
Cardiff
CF14 5GG

Eich Cyf/Your Ref:
Ein Cyf/Our Ref:

Date 25 January 2013

Dear Mr Forse

Thank you for your letter dated 17th December about affordable rural housing and the rural enterprise occupancy condition set out in TAN 6 Planning for Sustainable Rural Communities and the Rural Enterprise Dwelling Practice Guide. I apologise for the delay in replying to you.

It is accepted that there may be instances when new or existing rural enterprise dwellings are larger than normal, and may lead to issues about the affordability of rent. The issue of rent itself is not a planning matter, and this is why it is not referred to in planning guidance. Welsh Government Housing Division colleagues have offered advice on mechanisms to address rent shortfall below. The issue of rural enterprise dwelling size is a planning matter, and is the responsibility of the local planning authority to determine. Our national planning policy position on rural enterprise dwellings is very much based on limiting size to what is necessary, and the occupancy condition set out in the Practice Guide, in particular the affordable housing element, reinforces this approach.

The size of a rural enterprise dwelling, together with the other aspects of a development proposal, need to be fully justified. TAN 6 indicates that size should be based on the functional requirements of the enterprise and not the preferences of the owner or occupier. Furthermore, dwellings that are unusually large in relation to the needs of the enterprise or unusually expensive to build in relation to income should not normally be permitted. The local authority may also seek to apply maximum floor space requirements for such dwellings through guidance set out in their development plans, and impose a condition removing permitted development rights for extensions. With the occupancy condition in mind the future affordability of a dwelling may be a consideration for local planning authorities when determining planning applications, and applicants should have regard to this when submitting their proposals. Applicants should also be aware that planning conditions controlling the occupation of a rural enterprise dwelling will reduce its value relative to an open market valuation. Investments of this nature should not therefore be made on a speculative financial basis.



BUDDSODDWYR | INVESTORS
MEWN POBL | IN PEOPLE

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CF10 3N2

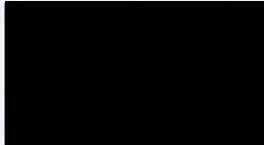
Ffôn • Tel 02920 821673
Richardspear@wales.gsi.gov.uk
Gwefan • website: www.cymru.gov.uk

In terms of rent, those who claim help through the housing benefit scheme (local housing allowances) are assessed on the basis of the size of their family and not the size of the property. In relation to the possibility of extra funding, if there is a shortfall between the contractual rent and the benefit payment the tenant can apply for additional help through the discretionary housing payment fund. This fund is allocated by Department for Work and Pensions to local authorities, and entitlement is based upon the discretion of the benefit officer dealing with the claim. Local authorities may on occasion have a need to house larger families, this may lead to more significant rent allowances and an increased demand for bigger dwellings. I cannot comment on the issue of reducing rents as this is a matter for the property owner to decide.

Rural Enterprise Dwelling owners may seek to remove an occupancy condition. They will normally be required to demonstrate, with supporting evidence, that there is no longer a rural enterprise need for the dwelling or a local affordable housing need. The normal mechanism for demonstrating the absence of need is market testing, typically over a 12 month period. The property would be advertised for sale or rent to those compliant with the occupancy agreement. The price or rent of the property would reflect the occupancy restrictions, generally around 75-80% of market value.

In any particular case advice on the matters above should be sought from the local authority.

Yours sincerely

A solid black rectangular box used to redact the signature of Richard Spear.

Richard Spear
Planning Policy

APPENDIX ELEVEN

ADVICE

1. I am instructed by Thrings Solicitors to advise in writing in respect of an application for the removal of an occupancy condition imposed in relation to Lettons House, Lettons Way, CF46 4BY (the 'Property').

Background

2. The background to this matter is set out in full in my instructions and I thank those instructing me for the concise and detailed nature of those instructions. My instructions should be read in conjunction with this Advice, along with the statement made by the owner of the Property, Mr Peter Hayman (enclosed with my papers,) for the full background to this matter.
3. As that background is known to those instructing me, a short summary will suffice for present purposes.
4. Planning permission was granted for the Property in 1980, following an appeal to the Secretary of State. An agricultural occupancy condition was imposed as part of the grant of planning permission, as set out at paragraph 9 of the 1980 appeal decision (Condition 3; enclosure 3 of my instructions).
5. Attempts were made to sell the Property in 2011 but no buyer could be found who complied with the agricultural occupancy condition.
6. Thereafter an application was made in 2011, to change the agricultural occupancy condition for a new rural enterprise condition, which had been introduced pursuant to TAN 6. The application was granted and the new rural occupancy condition (the 'Condition') was substituted, which restricted occupancy to persons working in a rural enterprise, or their survivors, and if there were no such eligible occupiers, to persons eligible for affordable housing, or their survivors. The full terms of the condition should

be read in conjunction with this Advice and it is set out in the 2011 application decision notice at enclosure 6 of my papers.

7. In October 2011, the Property was marketed again at a reduced price, following the death of Mr Hayman's wife. In February 2012, the price was reduced to £450,000 because despite strong interest, none of the potential purchasers could satisfy the Condition.
8. In November 2012, an application was made to remove the Condition. This was refused by the full planning committee of the Vale of Glamorgan Council (the 'LPA'), in April 2013 (enclosure 11 of my papers).
9. A further application was made to remove the Condition in December 2013. This was refused on a casting vote at a full planning committee meeting held in February 2014 (enclosure 12 of my papers).
10. There is a suggestion that the LPA and/or its agents might have been less than helpful in the attempted sale of the Property but that is not strictly relevant to the issues I am asked to advise upon. The fact is attempts have been made to sell the Property in accordance with the Condition but without success.
11. In August 2014, another application to lift the Condition was made on behalf of Mr Hayman (the '2014 Application'). The 2014 Application emphasised the reduced price at which the Property has been marketed to reflect the need to comply with the rural enterprise and affordable housing parts of the Condition, and the fact that there has still been no firm interest in the Property and no offer to buy it.

Instructions

12. In the circumstances, I am instructed to advise on the following points:

- a) Whether the request by the LPA for payment of a financial contribution in lieu of onsite provision of affordable housing and in order to remove the Condition, is lawful in light of the Vale of Glamorgan UDP 1996-2011, Supplementary Planning Guidance (the 'SPG');
- b) Whether the 2014 Application accords with the development plan;
- c) Whether the request for a financial contribution accords with the requirements of Regulation 122 of the Community Infrastructure ('CIL') Regulations 2010 ('2010 Regulation');
- d) Whether the proposed planning obligation is lawful;
- e) Whether removing the Condition would have a significantly adverse effect on the supply of affordable housing in the LPA's area, in light of the 2 recent appeal decisions included in my papers (enclosure 16).

Analysis

- 13. On an application pursuant to section 73 of the Town and Country Planning Act 1990 (the 'Act'), an LPA has to consider only the question of the conditions subject to which planning permission should be granted-the whole planning permission is not open to redetermination. If it decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, it should grant planning permission. If it decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, it should refuse the application.
- 14. Regulation 122 of the 2010 Regulations provides that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Regulation 122 applies to section 73 applications.
- 15. I turn the question of the SPG. In section 4 and section 6 of the body of the guidance, the SPG states that planning obligations will be sought where applicable for 'new development'. The instant case is not technically new development but an application to

- remove an existing condition (Page 7). The same point applies to the reference to 'substantial new developments' in 'Appendix 1', which follows the body on the SPG (in my papers).
16. Further, the SPG provides that planning obligations are most likely to be sought on 'major developments', or where the development will impact upon a particularly 'sensitive sites' (page 8). The section 73 application clearly does do fall within the definition of 'major developments' incorporated into the guidance (page 8). Nor could it now fall within the definition of a 'sensitive site'-the whole permission is not open for re-determination and the focus is on the continued acceptability of the Condition as it relates to the type of occupancy (page 9); landscape sensitivity is not the issue.
 17. In light of the foregoing, in my view, there is no clear policy support in the SPG for the principle of a financial payment in relation to the loss of affordable housing in this case. To that extent there does not seem to be a lawful basis upon which the request for a planning obligation can be maintained, based on the LPA's own guidance.
 18. The current development plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (the 'UDP'). It is understood that very little weight should attach to the Vale of Glamorgan Local Development Plan 2011-2026 as it remains at a very early stage and is not due for adoption until autumn 2016.
 19. The principle policy of relevance to the determination of the section 73 application, appears to be policy HOUS6, which relates to agricultural occupancy conditions. While it is not directly on point, it is relevant insofar as it provides that the approach to be taken is to consider such applications "on the basis of realistic assessments on the continuing need for their retention".
 20. The Property is no longer tied to a rural enterprise. The Property has been marketed over several years and clear attempts made to sell it in compliance with the Condition. In my view, the lack of any genuine resultant interest from a potential purchaser, provides a realistic evidential basis for the conclusion that there is no continuing need for the retention of the Condition. In those circumstances, policy HOUS6 of the UDP provides support for the view that the application should be granted and the Condition removed.

21. Insofar as there is no clear support for the payment of a financial contribution in the instant case in the SPG, it is arguable that a planning obligation is not necessary to make the development acceptable.
22. Furthermore, the large financial sum sought by the LPA appears to be based on the formula set out in the SPG in relation 'substantial new residential developments'. This is clearly not such a case-it is an application pursuant to section 73 of the Act. Accordingly, the payment sought is as a result arguably not 'fairly and reasonably related in scale and kind to the development'. It follows, that the request for a planning obligation does not seem to comply with the provisions of Regulation 122 of the CIL.
23. From the above, it will be apparent that in my view, there is no clear basis for the proposed planning obligation in the instant case and the request for a payment is not supported by local policy, or national guidance on the issue.
24. The two appeal decisions included in my papers (enclosure 16) support the view that the Condition should be removed. The reasoning applied by the respective Inspectors in those cases largely applies to the instant case.
25. The Derwen Fach decision is particularly relevant as it involves the same occupancy condition. That decision supports the view that where there is a lack of demand for a property with a rural enterprise/affordable housing occupancy condition, the conclusion can be reached that there is no continuing need for the occupancy condition and no resultant prejudice to the supply of affordable housing in the LPA area.

Conclusion

26. I have sought to address the specific questions set out in my instructions in the foregoing section. It will be seen that, in my view, the request for a financial contribution through a planning obligation in the instant case is not supported by local or national policy. The lack of interest in the Property after extensive marketing supports the conclusion that there is no longer a need for the Condition and that it should be removed.
27. These points should be made (again) to the LPA at a meeting. In the event that the 2014 Application is ultimately refused, based not least on the Derwen Fach decision, there is clearly merit in appealing that decision.

28. If I can assist further in relation to this matter, those instructing me should not hesitate in making contact.

TIM SHEPPARD,
1 September 2015.

No5 CHAMBERS,
London-Birmingham-Bristol-East Midlands.

APPENDIX TWELVE

From: Helen Galsworthy [REDACTED]
Sent: 20 May 2013 09:32
To: rural2
Subject: RE: Lettons House, Lettons Way, Dinas Powys, CF64 4BY

Dear Sirs

In respect of the above, please accept my sincere apologies in responding, I had been awaiting a meeting with my client before coming back to you.

In respect of your letter, I would comment:

- The offer that I made was not a formal offer but intended to form a discussion around client expectations. It appears that from your end, you have taken this as a formal offer. If it would be of use, I am happy to set out a formal offer which makes the situation more formal. This is perhaps where the confusion has arisen. I would add that the property has been marketed for some two years and the property has not been sold, as we are currently the only willing buyer, then it is unfortunately a case of the vendor will have to wait. The timeframe of 6 months is suggestive as planning determination is a difficult thing to predict. It is unlikely that the value of the property will increase as the nature of the scheme will be for 6no individuals with learning difficulties living in the property as a shared house. Given the restriction on the title, this will also apply to our scheme, so I fail to see how the value will increase.
- In respect how any document could be addressed, there are a number of options- we can conditionally exchange subject to planning. I would not necessarily expect the vendor to withdraw the property from the market unless we have conditionally exchanged (but then we would have exchanged so your client will also be legally bound in. Alternatively, we can simply go ahead at risk and purchase once planning is granted. It is unlikely we would want an option agreement.
- In respect to the question of taking advantage of a reduced price, we are buying the property with the restrictions upon the title, and therefore our scheme is based around working within the restrictions. Your client's solicitor may be able to offer further advice on this

In response to the questions listed:

- As a not for profit organisation, we have always avoided paying deposits whether non returnable or not. I am afraid that we would not pay a deposit. There would be no premium payable either. I see that any additional fees would be minimal. I perhaps would agree a small contribution to these.
- We are intending to develop the scheme for up to 6no individuals with learning difficulties.
- I will provide you with a copy of the valuation - I only have it currently in hard copy.
- The offer is subject to Board approval (I think it would be best if I prepare a formal offer)
- The Local Authority and Housing Associations work together in partnership on all schemes and we seek to deliver the strategic housing requirements of each Local Authority that we work with. They approached us to deliver this scheme. The valuation of 420 was simply a verbal conversation the day that my architect and I came to visit the property and the 420k was derived on assumptions that I presented to the LA that day when I subsequently met with the LA too.

I am happy to meet with you and all parties but please consider I only work Monday, Wed and Fridays.

Yours faithfully

Helen Galsworthy

APPENDIX THIRTEEN

Robin Jones

From: Helen Galsworthy [REDACTED]
Sent: 14 October 2013 11:14
To: Robin Jones
Subject: FW: lettons house

Dear Robin

I have spoken to Pam this morning and she has confirmed she is still interested in undertaking a scheme .

I need to contact Welsh Government on a couple of things and Pam needs to consider the rents.

I am still of the opinion that we will not be able to increase our offer from 420k.

Thanks
Helen

From: Helen Galsworthy
Sent: 07 October 2013 11:20
To: [REDACTED]
Subject: lettons house

Dear Robin

I am writing in respect of your email.

I can confirm that the increased offer has no relation to any previous reports cited by the Local Authority and is based on our viability.

I have not sent the LA a copy of the valuation but have cited this in an email.

I have been requested for further information by Pam Toms which I hope to do today.

'Unfortunately, I didn't log on at home so I have only just opened my emails.

Thanks
Helen

Helen Galsworthy
Development Surveyor / Syrfëwr Datblygu
[REDACTED]

Established Over 150 Years



**Chartered Surveyors,
Auctioneers, Valuers, Land Agents
and Estate Agents**

Our ref: RLJ/DAW/H60

15 October 2013

Mr Hayman
Lettons House
Lettons Way
Dinas Powys
CF64 4BY

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Tel: (01446) 774152
Fax: (01446) 775757
Web Site: www.wattsandmorgan.co.uk
E Mail: rural@wattsandmorgan.co.uk

By e-mail

Dear Mr Hayman

Re: Lettons House, Lettons Way, Dinas Powys

I enclose for your attention a copy of an e-mail received from Helen Galsworthy on 14th October 2013 during my absence from the office.

The letter is self explanatory and you will note that whereas Helen is still awaiting further information from the Welsh Assembly Government she is still of the opinion that Wales & West Housing Association are unlikely to increase their offer from £420,000.

I shall ring Helen on her return to the office on 16th October and keep you informed of any further information I receive.

Yours sincerely

Watts and Morgan LLP

Robin L Jones BSc (Hons) MRICS FAAV

Encls

Copy to Mr L Forse - by e-mail

Members: John D Morgan, FNAEA Dyfed R Miles, BSc (Hons), MRICS. Richard Morgan, Nick Jones, MRICS. Robin L Jones, BSc (Hons), MRICS, FAAV
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APPENDIX FOURTEEN