

North Warwickshire Borough Council

Affordable Housing Supplementary Planning Document June 2008

ADDENDUM – DECEMBER 2010



S106 Obligation Re-negotiation

This Addendum to the Affordable Housing Supplementary Planning Document (SPD), based on the Practice Note (November 2010), sets out the Council's approach to such requests, and to the Council's approach to affordable provision on new sites during this downturn.

The Practise Note is intended to assist, and to offer guidance to land owners and prospective developers in preparing the evidence base when proposing a new project or in seeking to renegotiate an existing planning permission. It will thus be taken to be material planning consideration.

Any Financial Appraisal for a new project or re-appraisal for re-submission or review of an extant S106 should start from the Council's Policy to achieve 40% affordable housing on-site. It is for the developer to provide the case for lower provision and to show that the Obligation itself is preventing implementation of the permission.

A number of options should be provided, clearly showing an assessment of what level of Affordable Housing the site proposal could actually achieve. Options that need to be considered in the case of developers seeking renegotiation of financial contributions include:

- A phased approach to the payment of the already agreed contribution over the life of the project
- An initial payment at commencement, but payment of the balance only at final occupation.
- An initial nominal payment at commencement but a re-evaluation of the development project just prior to final occupation, seeking a new contribution based on final realised market values.
- Postponement of any contribution until an evaluation at the time of final occupation based on final realised market values.

Options that should be considered in the case of developers seeking renegotiations of affordable housing provision already agreed for a site, or for seeking affordable provision on new sites, include:

- a phased approach to the provision of affordable housing throughout the life of the development
- all affordable provision to be made just prior to final occupation of the site
- a phased approach but with the provision at each phase based on a re-evaluation, built in at each phase in the life of the project
- A combination of a lower level of affordable provision on site, but with a compensatory off-site contribution to make up the provision so as to meet policy requirements.
- Agreement of a lower level of provision on site, but at completion, a further appraisal being undertaken to establish an off-site contribution based on final realised market values.

The Council will seek to apply a flexible approach in any negotiations and decisions relating to renegotiations on S106 Affordable housing requirements and/or new proposals requiring

Affordable Housing to reflect changing economic circumstances, subject to clear evidence arising from a robust assessment of the need to reduce the requirements and/or contribution.

Identifying and Evidencing Affordable Housing Need in Category 4 Settlements requirements

The main detailed Policy HSG2 includes a requirement that affordable Housing in Category 4 settlements (i.e. those with a development boundary but not classed as Local Service Centres) will only be permitted “where a need has been identified following systematic analysis involving the local community concerned landowners and housing providers.

In order to apply a more flexible approach to determining the need for Affordable Housing for smaller housing sites of 4 dwellings or less, (and where the undertaking of a Formal Housing Needs Survey may be seen as placing too great a financial and administrative burden, discouraging smaller sites to come forward), the “systematic analysis” required by Policy can be satisfied by using existing information held by the Borough Council, other Agencies and Registered Social Landlords. The Council will still expect local consultation to be undertaken, but the existence of up-to-date information held by the Borough Council and other Agencies will be held to be a material consideration, establishing the Affordable Housing Need for that Parish.

Where the available information indicates a local need greater than 4 dwellings, only a maximum of 4 will be permitted without the undertaking of a Formal Housing Needs Survey.

Where the available information indicates a local need of less than 4 dwellings, only that number identified will be permitted.

For example: On a site capable of accommodating 4 units, but where the available local evidence only indicates a need for 2, then only 2 affordable units would be permitted. Any application seeking additional housing would have to undertake a Formal Housing Needs survey to provide the additional evidence to support the planning application.

The list below shows the Category 4 settlements to which the new approach to Housing Needs surveys and evidence for proposals of 4 dwellings or less will apply.

Ansley
Austrey
Curdworth
Fillongley
Hurley
Newton Regis
Piccadilly
Shuttington
Shustoke
Warton
Whitacre Heath
Wood End