



# **Shropshire Local Development Framework**

## **Type and Affordability of Housing Supplementary Planning Document (SPD)**

**Consultation Draft March 2016**

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# 1. Introduction

## Introduction

- 1.1 This Supplementary Planning Document (SPD) supports the policies in the Shropshire Core Strategy, adopted 24<sup>th</sup> February 2011 and the Site Allocations & Management of Development Plan (SAMDev) adopted 17<sup>th</sup> December 2015<sup>1</sup>. It also reflects paragraph 50 of the NPPF<sup>2</sup> which seeks to widen choice including for those people wishing to build their own home.
- 1.2 The Shropshire Core Strategy sets out the strategic context for local planning and includes strategic objective 5:  
*“Provide for a mix of good quality, sustainable housing development of the right size, type, tenure and affordability to meet the housing needs and aspirations of all sections of the community, including provision for specialist needs and the elderly.”*
- 1.3 The Site Allocations & Management of Development Plan (SAMDev) sets out detailed policies to complement those in the Core Strategy. It aims to deliver sustainable development and the vision and objectives of the Core Strategy to 2026. The SAMDev Plan sets out settlement policies and allocations and development management policies which provide specific guidance to guide the consideration of development proposals.

## Consultation

- 1.4 The consultation period for this Draft Type and Affordability of Housing SPD runs for 6 weeks from Friday 18<sup>th</sup> March 2016 to 5pm on Friday 29<sup>th</sup> April 2016. Consultation responses should be sent to: [planning.policy@shropshire.gov.uk](mailto:planning.policy@shropshire.gov.uk). Responses received after 5pm on 29 April will not be considered.
- 1.5 It would be most helpful if respondents could identify the Draft SPD that is being commented on in the subject heading and indicate which sections of the document their comments relate to by quoting the chapter/paragraph numbers used in the Draft SPD itself.
- 1.6 Please note that the updated Appendices to this SPD will be finalised during the consultation period and will be contained within the final version of the SPD. The current SPD and Appendices can be viewed at: [http://shropshire.gov.uk/planning-policy/supplementary-planning-documents-\(spds\)/type-and-affordability-of-housing/](http://shropshire.gov.uk/planning-policy/supplementary-planning-documents-(spds)/type-and-affordability-of-housing/)

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<sup>1</sup> A list of relevant policies is included under ‘Local Plan’ in the glossary in the appendix

<sup>2</sup> The National Planning Policy Framework published by Government March 2012

### **Policies and documents superseded**

- 1.7 On adoption, this Supplementary Planning Document supersedes the Type and Affordability of Housing SPD adopted by Shropshire Council on 12<sup>th</sup> September 2012.

### **Monitoring and Review**

- 1.8 Monitoring of the delivery of affordable housing and specialist accommodation will take place as part of the *Authority's Monitoring Report (AMR)*. The AMR is normally published each December and will be available on the Council website under the Planning Policy pages.
- 1.9 This SPD will be kept under review in light of all material information, guidance, housing strategy and housing market assessment in Shropshire. A review may be triggered by national changes in policy, updated information on housing needs or issues raised by the public, private or third sector regarding the operation of the SPD.

## **2. Type, mix and design of housing**

### **Redressing Local Imbalances in the Housing Stock**

- 2.1 It is the Council's aspiration, facilitated by Core Strategy Policy CS11 & SAMDev Policy MD3 that all developments contribute to a mix of dwelling types, sizes and tenures in order to achieve mixed, balanced, inclusive and sustainable communities. Where a planning application relates to a site of more than 5 dwellings (Policy MD3), the Council will advise developers on the acceptable mix of types and sizes of dwellings based on local requirements and housing need.
- 2.2 In determining planning applications the Council will take into account evidence of specific site development guidelines identified in SAMDev Plan, housing need (identified in the housing register), known imbalances in the existing housing stock and any other relevant factors, including Place Plan priorities and the aspirations of local communities expressed through Parish, Town and Neighbourhood Plans.
- 2.3 It is important to include an adequate proportion of smaller dwellings as part of a development in rural areas as market forces favour the over provision of larger dwellings potentially excluding less well-off people from rural villages and the countryside. This is also recognised by SAMDev Policy MD7a which provides mechanisms to achieve appropriately sized affordable and essential rural workers dwellings and to control the replacement of dwellings.

### **Addressing Specialist and Supported Housing Needs**

- 2.4 Provision has to be made for the increasing number of elderly people in Shropshire and for other vulnerable groups who need either specialist accommodation or a setting where appropriate support can be provided. This provision may be made through the provision of new market housing (e.g. for older people), adaptation to existing housing or through some form of specialist provision. Specialist housing includes accommodation suitable to meet the housing and support needs of people with: learning difficulties; physical disabilities; mental health problems; substance misuse issues; ex-offenders; vulnerable young people, as well as for older people who may require smaller and/or adapted accommodation.
- 2.5 To provide for specialist housing needs, there may be flexibility in the normal affordable contribution, where the development provides for a specific need in the locality that has been identified and evidenced to the satisfaction of the Council. Where the Local Planning Authority accepts the case for specialist housing provision in lieu of (or partly in lieu of) the affordable housing contribution, negotiations will be on a site-by-site basis, between the developer and the Council's Housing Enabling Officers. It will normally be assumed that these developments will fall within Use Class C3 (Dwelling Houses) rather than Use Class C2 (Residential Institutions). Such accommodation will be restricted to such use by a legal agreement and

remain as specialist housing need accommodation in perpetuity. Additional guidance is provided in Chapter 9.

### **Supporting Community-Led Affordable Housing in Shropshire**

- 2.6 The Council is committed to enabling the delivery of 'Community-Led' affordable housing projects which empower communities to commission their own homes to meet local needs. We recognise that this is an ambition for some communities and have developed an initiative to help Parish Councils in partnership with a Registered Provider to develop homes that local people want and need and to help sustain their local communities.
- 2.7 Community-Led affordable housing has many models of delivery – from general stewardship and oversight of dwellings financed and owned by a housing association or land trust, through to actual tenancy management and outright ownership of the asset. Regardless of the model adopted, it is important that the community is genuinely engaged with the project and over time can develop the capacity necessary to actively guide delivery matters such as: site assembly, timescales, funding, design, tenures, planning, local lettings policies and local standards for estate maintenance and management.

### **Amenity and Space Standards for New, Converted or Extended dwellings**

- 2.8 Whilst there is a need to make efficient use of development land, it is important to maintain acceptable living standards for the occupants of dwellings, in terms of the internal size of living accommodation and the provision of external private amenity space. The inclusion of a satisfactory level of play area for family accommodation together with private storage and drying areas will be required for all developments. Developments must not provide cramped accommodation and minimal outside amenity space. It is also important to ensure such developments do not have unacceptable impact for neighbours, such as overshadowing or loss of privacy. In determining planning applications, the Council will take these factors into consideration when assessing the acceptability of the proposal.
- 2.9 In recent years, substantial building has taken place nationally on domestic garden land and this has been controversial. While such development make efficient use of land and avoiding building in the open countryside, building on garden land can have negative impacts including, creating a cramped living environment, increased overlooking and loss of privacy. The potential impact on character and appearance of neighbourhoods is of great significance together with the loss of private amenity space and habitats. In considering proposals for building on domestic gardens, the Council will give careful consideration to all of the relevant factors on a case by case basis, ensuring that proposals provide satisfactory residential amenity for both existing and new dwellings.



## **House Extensions and Replacement Dwellings in the Countryside**

- 2.10 The market trend is towards larger and more expensive dwellings in the countryside, tending to exclude the less well-off, including those who need to live and work in rural areas. Whilst this problem can be partly addressed through providing affordable rural dwellings, it is also important to maintain the stock of existing smaller, lower cost, market dwellings.
- 2.11 With this in mind, the Council is concerned to control both the size of any replacement dwellings in the countryside and the size of extensions to houses in the countryside, as these can otherwise create larger and larger dwellings. Other considerations include the loss of traditional dwellings in the landscape, visual impact of large buildings in rural areas and the need to ensure the development is sympathetic to the character and appearance of the original building and its surroundings. Core Strategy Policies CS5 and CS6 and SAMDev Policies MD2 and MD7a & MD7b set out policy criteria to seek to achieve these objectives.
- 2.12 Replacement dwellings in the countryside will only be permitted where the existing building has established and continuing residential use rights and has not been abandoned. Any proposals for the replacement of dwellings which have heritage value or contribute to local distinctiveness or landscape character will be resisted unless they meet the requirements of SAMDev Policies MD2 (Sustainable Design) and MD13 (Historic Environment). In assessing planning applications, negative impacts associated with building loss will be weighed with the need for the replacement of damaged or substandard dwellings and any other sustainability issues.
- 2.13 Whilst a replacement dwelling may have a different form, particularly if this results in a more locally appropriate dwelling, replacement dwellings should not be materially larger than the original dwelling in terms of floorspace, proportions and massing and should occupy the same footprint.
- 2.14 Extensions to existing dwellings should also be sympathetic to the size, mass, character and appearance of the original building. In assessing proposals regard will be given to: any need to upgrade residential amenity to a reasonable modern standard (in particular bathroom and kitchen facilities), the impact of additional outbuildings; as well as the more general development management considerations, such as impact on neighbours. Consideration of sympathetic design (taking account of bulk, scale, height and external appearance of the resultant dwelling), local landscape and character, site topography and features, together with landscaping and boundary treatments in keeping with a rural area, should be demonstrated by applicants for planning permission.
- 2.15 In the Green Belt regard will also be had to SAMDev Policy MD6 and national policy (paragraph 89 of the NPPF) which requires that :-
- the extension or alteration of a building must not result in disproportionate additions over and above the size of the original building;
  - a replacement building is in the same use and not materially larger than the one it replaces.

2.16 Permitted development rights will generally be removed from replacement dwellings in rural areas where the original dwelling had been extended or a larger replacement is approved<sup>3</sup>. In general, multiple successive extensions to dwellings should normally be avoided as this tends to lead to the creation of excessively large properties, where the extensions are often unsympathetic to the character and appearance of the original dwelling or the surrounding area.

### **Sub-divisions in the Countryside**

2.17 Core Strategy Policy CS5 allows “development proposals on appropriate sites which maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits. Sub-divisions of existing residential properties can improve the sustainability of rural communities by helping diversify and rebalance the housing stock, particularly where there is a shortage of smaller dwellings”.

### **Residential Conversions of Buildings in the Countryside**

2.18 Provisions were introduced in April 2014 which, subject to a number of restrictions and conditions, allow the change of use of agricultural buildings to residential without the need for planning permission. These conditions and restrictions are set out in full in Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Where development does not require planning permission it will be assessed against the requirements of the relevant regulations rather than adopted Plan policies.

2.19 Where planning permission is required for residential conversion, Core Strategy Policy CS5 and SAMDev Policies MD7a & MD7b set out the main criteria which are taken into account in making a decision. Policy CS5 makes provision for the conversion of suitable rural buildings for employment, residential and other appropriate uses such as community or heritage facilities. Priority is given to conversions for economic type uses and residential conversions to provide affordable housing to meet a local need (including agricultural workers’ dwellings). Where the building is converted to an affordable dwelling there will be requirement for a local connection criteria and rent restricted to 80% of the OMV (maximum of the Local Housing Allowance) and subject to a S106 Agreement. The residential conversion will be subject to high sustainability standards. Policy CS5 allows conversion of existing buildings that are considered a “heritage asset” into open market dwellings. “Heritage assets” normally:

- pre-date 1950;
- comprise traditional materials and building methods;

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<sup>3</sup> As set out in SAMDev Policy MD7a, Part 3

- are of permanent and substantial construction;
- are of local significance and add value to the landscape

2.20 Policy MD7a provides additional detail on the requirements for residential conversion stating:

“In the case of market residential conversions, requiring planning permission, the conversion of buildings to open market use will only be acceptable where the building is of a design and form which is of merit for its heritage/landscape value, minimal alteration or rebuilding is required to achieve the development and the conversion scheme would respect the significance of the heritage asset, its setting and the local landscape character.”

2.21 Other policies in the SAMDev Plan such as MD2 (Sustainable design) and MD13 (historic environment) specify additional considerations and requirements. In order to take into account the importance of such buildings as landscape and heritage assets, the approach to conversions will be informed by evidence such as the Shropshire Farmstead and Landscape Project and recognised conversion design guidance, such as that produced by English Heritage. The Historic Environment SPD which is also being published by the Council will provide additional guidance on considerations regarding proposals relating to heritage buildings or where there are other historic environment issues to take into account.

2.22 In the Green Belt there is additional control of development however the re-use of buildings is not considered inappropriate provided that the building is of a permanent and substantial construction. It would also be expected that conversions in the Green Belt will meet the other relevant requirements of Policies CS5, MD7a and MD7b which are discussed above. Contributions to affordable housing are also expected, except in the case of listed buildings (as set out in Core Strategy Policy CS11).

### **3. Affordable housing on market housing developments**

#### **Introduction**

- 3.1 The Core Strategy seeks to deliver 9,000 affordable homes over the plan period 2006-2026 (Policy CS1), equating to around a third of all new homes. The two primary means of achieving this are through developer contributions to affordable housing from open market developments and affordable housing 'exception' sites (Chapter 4). To help achieve more affordable homes, the threshold for developer contributions set in Policy CS11 is one dwelling this includes any additional dwellings created by conversions and subdivisions and includes the residential aspect of live-work units. The number of new market dwellings is *net* of any demolitions of existing dwellings (providing their use as dwellings has not been abandoned).
- 3.2 Core Strategy Policy CS11 requires “appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index.”

#### **The current prevailing target rate**

- 3.3 The current prevailing target rate for affordable housing is set for a period of twelve months at a time through the process set out in the Appendix. The prevailing target rate is reassessed annually in December each year, for the following financial year (1<sup>st</sup> April – 31<sup>st</sup> March). The rate is published on the Council’s website at [www.shropshire.gov.uk/planningpolicy](http://www.shropshire.gov.uk/planningpolicy), based on the template included in the appendix.
- 3.4 The annual assessment allows the prevailing target rate to reflect changes to house prices, cost of construction, and alternative land use value, thereby accurately reflecting economic viability in Shropshire at any point in time, facilitating the processing of planning applications, and reducing the scope for disputes and appeals.
- 3.5 For outline permissions, the affordable housing contribution for each phase will be specified in the section 106 legal agreement as a formula which applies the affordable housing target rate that is prevailing at the time that the reserved matters for each phase is submitted. For ‘Full’ applications the relevant date is the “Submission” date which means the date at which the application and all accompanying matters that are necessary to validate the planning application are received in full by the Council.

#### **Affordable housing contributions**

- 3.6 Core Strategy Policy CS11 requires all new open market housing developments to make an appropriate contribution to affordable housing and a standard section 106 legal agreement will be required for on-site provision or financial contributions as appropriate. This section 106 is a non-

negotiable, standard agreement for which the Council makes a minimal charge

3.7 Financial contributions will be required to be paid as follows:

<b>Permissions for</b>	<b>Payment Periods for financial contributions to affordable housing</b>
1 dwelling	2 years from commencement, or 3 months after completion of the development, whichever is the sooner
2 + dwellings	1 year from commencement or on completion of the development, whichever is the sooner
Removal of restrictive conditions attached to agricultural workers dwelling and holiday accommodation thereby providing an open market dwelling	Payment is required on completion of the S106 Agreement and release of the Planning Permission

**Financial contributions for fractions of an affordable dwelling**

3.8 The affordable housing target rate will seldom equal a round number of affordable properties. While a whole number of affordable homes will be provided on-site, the balance will be provided as a financial contribution (FC). On smaller sites there may only be a financial contribution.

The formula for calculating the on and off site contributions is

$$\text{net no. new dwellings} \times \text{affordable housing target rate}$$

If a financial contribution is required then the following formula is utilised.

$$FC = B_{ah} \times F \times C$$

Where

$B_{ah}$  = Balance of the affordable housing remaining after the on-site contribution has been calculated

F = The average internal floorspace of the proposed units, **OR** 100 square metres (whichever is the lower) provided the unit is not currently subject to an occupancy condition<sup>4</sup> C = £900 per square metre (being the standardised cost of construction at Code Level 3 standards, regardless of the actual development cost, which will vary from site to site)

### **Financial contributions for whole affordable units in lieu of on-site provision**

3.9 On rare occasions where it is agreed with the Housing Enabling Officers provision may exceptionally be made off-site, such agreement should be reached prior to the submission of a planning application . In these circumstances the calculation of the off-site financial contribution (FC) will be based on the full cost of provision of affordable housing elsewhere, including land acquisition, in accordance with the following formula :-

$$FC = A \times F \times C$$

Where :-

A = The number of new dwellings multiplied by the affordable housing target % rate from dynamic viability, (expressed as a decimal)

F = The average gross internal floorspace of the proposed units, **OR** 100 square metres (whichever is the lower)

C = £1,155 per square metre (being the average typical cost of provision of an affordable unit at Code Level 3 standards, plus the cost of infrastructure, services, professional & enabling fees, and land purchase)

### **Use of financial contributions for off-site provision**

3.10 The financial contributions for off-site affordable housing will be pooled to be spent on facilitating the delivery of additional affordable and/or supported

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<sup>4</sup> Criteria for dwellings with occupancy restrictions are set in Chapter 7.

housing in Shropshire. Generally this will be additional housing in the local area (defined as the parish) but this may be widened over time (see below), to ensure housing is delivered.

- 3.11 Where it appears to the Housing Enabling Officer that there is no realistic prospect of delivering affordable housing in the parish within one year, the financial contributions may be pooled with other settlements in the Place Plan area and spent within their combined area. If again there is no realistic prospect of delivery arising from the financial contribution within a further four years (five years in total), then the contribution concerned may be spent elsewhere in Shropshire.

### **Exemptions**

- 3.12 The following are exempt from the definition of “new open market housing” for the purpose of making affordable housing contributions:

- Replacement dwellings subject to the residential use not being abandoned and formally constituted residential annexes (i.e. where there is no net increase in the number of dwellings).
- Use Class C2 (Residential Institutions) developments.
- Conversions of listed buildings<sup>5</sup>, as exempted by Core Strategy Policy CS11. New residential development within the curtilage of a Listed Building will not be exempt.
- Non-market housing, including affordable rented housing, low cost home ownership (as defined within this SPD); specialist non-market supported housing schemes for vulnerable groups and Almshouses.
- Rural workers’ dwellings that have a legal agreement that they will default to affordable housing if no longer required for the agricultural business
- Other accommodation that is limited in its occupation by a planning condition or legal agreement, and is therefore not fully open market housing, including military accommodation and Service Family Accommodation properties; nurses accommodation; estate workers’ dwellings; designated accommodation for Clergy and other tied housing (excluding live-work units). Removal of such a condition or legal agreement will trigger payment of the appropriate affordable housing contribution as a new market property.
- Qualifying (granted self build relief from Community infrastructure Levy) self build dwellings of 80sqm or less internal area. See paragraph 5.5 for guidance on larger self build dwellings.
- Change of use of agricultural buildings into a residential use where the use constitutes permitted development as outlined in the Town and

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<sup>5</sup> Including ‘curtilage listed buildings’, namely buildings that lie within the curtilage of a listed building, and are thereby part of the listing as defined in Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Country Planning (General Permitted Development) (England) Order 2015 or any subsequent revision.

### **Exceptional cases where development is not viable**

- 3.13 In Shropshire, there will be some areas and some types of development where the financial viability may be marginal. In these cases, compromise may be necessary over the affordable housing contribution in order to deliver new homes for the benefit of the local community, or other benefits such as the provision of low cost market housing or employment premises. Any such compromise must result in a stalled development either commencing or continuing towards completion. Advice should be sought from the Housing Enabling Officer before formal planning proposals, revisions or requests for variations are submitted.
- 3.14 The conversion or sub-division of existing buildings already in the ownership of the applicant may in some instances also warrant consideration in recognition of reduced viability. This applies where specific build costs and differing VAT regulations result in additional development costs not normally experienced by equivalent new build projects. In such cases a reduction in the affordable housing contribution may be appropriate.
- 3.15 The Council does not wish to see the requirement to contribute to affordable housing as a major inhibitor to residential development growth. Where a developer can demonstrate to the satisfaction of the Housing Enabling Officer that it is not viable at the level of contribution required, negotiations will determine what would be a viable contribution. An open book accounting approach will be used to assess the financial aspects of the development including land acquisition costs, finance costs, 'abnormal' development costs, professional fees, prevailing market conditions and level of risk. The Council will assume that the actual land price paid by the developer fully reflected market conditions *and* all of the planning policy obligations applicable to the site at the date of that purchase (or at the date of entering into a legally binding option agreement). There will be an expectation that the Affordable Housing Contribution is built into the developments costings and should not be ignored or lost at the expense of high build specification. The template used by the Council as a starting point for discussions on viability is available in the Appendix.
- 3.16 Small schemes will normally be assessed in-house by Shropshire Council, while large or complex schemes, or schemes where the developer wishes to have independent scrutiny, may be referred (at the developer's cost) to the District Valuer Service or other independent assessor. Large developments with phased reserved matters should expect to be assessed for viability at each phase.
- 3.17 The open book accounting approach will expect land prices to reflect current market conditions, current alternative land use value and current policy requirements. This also includes any specific design costs, for example the cost of preserving heritage assets.



- 3.18 Where it is appropriate to negotiate a reduced contribution rate, the section 106 agreement may include an overage clause. This sets an agreed completion date for a further appraisal that will be based on achieved development values and actual development costs at that point in time. If a profit of over 20% Gross Development Value (GDV), or a gross annual yield of 6% is achieved by the development, the overage clause will normally require the surplus above this profit level to be recouped by the Council up to the remaining balance of the affordable housing contribution at the affordable housing target rate that was applicable at the time of the submission of the latest relevant application<sup>6</sup>
- 3.19 It is important to note that this figure of 20% profit on GDV only applies when determining overage. It should **not** be interpreted by developers as a general 'benchmark' figure to be used when presenting viability appraisals to the Council.
- 3.20 In cases where financial viability is demonstrably an issue, other developer contributions may be reduced instead of, or in addition to, reductions in the affordable housing contribution. In deciding what is the priority contribution (whether affordable housing or other infrastructure), the Council will have regard to the current LDF Implementation Plan. The LDF Implementation Plan reflects locally determined priorities as identified in the 18 Place Plans. These reflect community concerns, town, parish and neighbourhood plans, and investment available from other organisations. Where viability is an issue, the identified priorities for the local area will inform the Council's decision on which contributions take precedence.

### **Mix, type and layout of the affordable housing requirement**

- 3.21 For large sites, this will usually be considered as part of the reserved matters application- see paragraph 4.6. Within the affordable housing component, a 70%:30% split between rented housing (70%) and low cost home ownership (30%) will be the starting point for negotiations on the mix with the Housing Enabling Officer (unless directed otherwise as a result of legislative and/or policy changes) The tenure split reflects the tenure requirements of those households on the Council housing waiting list. It must be assumed by all parties that the affordable housing is being delivered **without** public sector grant. Where a single affordable dwelling is being created through planning-gain it should initially be assumed that the tenure of this will be rental.
- 3.22 Detailed definitions relating to the specific types of affordable housing tenures are given in the Appendix of this Supplementary Planning Document.
- 3.23 Shropshire Council require prospective developers to seek clarification on the number, tenure, type and size of affordable housing required as on site provision prior to the submission of a planning application. A schedule of the proposed affordable housing must be provided with the application.

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<sup>6</sup> For large sites, this will usually be the reserved matters application

- 3.24 The proposed on site affordable housing will be informed by any up to date local needs evidence, including Shropshire Homepoint; the Shropshire Local Housing Market Assessment, the Housing Strategy, Shropshire Tenancy Strategy and any relevant and recent parish needs survey. A duly prepared and adopted Town or Parish Plan, Neighbourhood Plan or Village Design Statement will also be considered as a material policy consideration.
- 3.25 As part of our enabling role, we encourage developers to construct affordable homes to gross internal floor areas as outlined in the nationally described space standards review DCLG March 2015.
- 3.26 Affordable housing provided on site should be integrated with market properties in terms of their appearance, design, layout and siting within the development. For ease of management, small clusters of affordable homes, for example pragmatic groupings of up to six properties, may be acceptable provided that when viewed as a whole the development meets this requirement for integration. Additionally, the Council may also be guided on this matter by any specific factors or reasoning put forward by Registered Providers on a scheme by scheme basis.

#### **Standard definitions of affordability**

- 3.27 In responding to the overwhelming scale of housing need, Shropshire Council proposes a broad range of affordable housing options available to qualifying people in perpetuity. These provide residents with access to well designed, high quality and environmentally sustainable housing at affordable prices, regardless of property size and tenure.
- 3.28 In addition to traditional rented and shared ownership housing provided by the Council and Registered Providers (Housing Associations), we also recognise the role of other philanthropic providers and even self-build to deliver alternative affordable housing tenures that help to meet housing need in Shropshire (for more details regarding these tenures see Appendix).
- 3.29 Starter Homes will be included into the suite of tenures following clarification of details and adoption as Government Policy
- 3.30 Affordable homes for outright ownership (100% freehold) fall into two categories - those within mixed developments that also include open market housing, and those on 'single plot' exception sites/group exception sites as discounted market sale dwellings together with those that are developed as part of a cross subsidy development. In all cases, the future resale value of the property will be expressed in the section 106 agreement as a simple percentage of open market value to be safeguarded in perpetuity through the use of resale covenants.

#### **Allocations of affordable housing on open market developments**

- 3.31 All new affordable dwellings on open market developments will be subject to conditions that ensure the homes for rent shall be advertised through

Shropshire Homepoint and allocated in accordance with the adopted Shropshire Allocation Policy and Scheme (in combination with any Local Lettings Plan, section 106 agreement, or alternative arrangements agreed in writing with the Council).

- 3.32 All affordable homes for sale shall be advertised through Shropshire Homepoint (or through alternative arrangements agreed in writing with the Council) at the same time as any other sales and marketing is carried out in relation to the property or properties. This is to ensure that affordable homes for sale are marketed as widely as possibly whether or not they are managed by a Registered Provider.
- 3.33 Section 106 agreements will refer to the use of Local Lettings Plans that may be in operation (these being local variations allowed by the Shropshire Housing Allocation Policy) to overcome any risk of conflict between the section 106 agreement and the housing allocations process.

### **Section 106 agreement Heads of Terms**

3.34 The section 106 Agreement will, as appropriate, cover the following Heads of Terms:

- No more than 50% of the market housing units shall be occupied before all the affordable units are fully completed and fit in every respect for occupation as affordable dwellings. Unless otherwise agreed in writing by the Councils Housing Enabling Officer.
- The affordable housing units shall be of the size, type, tenure and specific plot numbers that are specified in a schedule that has been agreed with the Council's Housing Enabling Officers and any revisions that shall be agreed in writing by the Councils Housing Enabling Officer.
- The agreed Registered Provider shall, so far as is legally permissible, exclude any right to buy / right to acquire or any other such mechanism that results in the home being removed from the affordable housing stock.
- In relation to affordable housing for Shared Ownership – no greater than 80% ownership to be transferred to the buyer with the Registered Provider retaining the balance in perpetuity. With the exception of where the dwelling is outside a designated protected area and/or forms part of the HCA build programme.
- In relation to low cost home ownership housing to purchase outright and non-Registered Provider affordable properties – restriction on the Title in favour of Shropshire Council to prevent resale at the restricted percentage unless the Council's written consent is given, (similar to that contained in the model section 106 agreement. Restrictions on tenure, cost, allocation and occupancy as well as provisions to prevent, so far as is possible (without making the property unmortgageable), such dwellings from becoming available for sale at full open market values.

3.35 The Council will monitor compliance with the section 106 agreement, and will work with Registered Providers and others to ensure that its provisions are adhered to. The Council will respond to, and fully investigate any reports of a breach of condition or the terms of a section 106 legal agreement, and enforcement action will be taken where necessary.

**100% affordable housing on planning gain sites**

3.36 For the avoidance of doubt, Registered Providers and others may continue to develop 100% affordable housing schemes on planning gain sites within their control providing that such proposals meet with the Council's strategic housing and planning objectives and the tenures proposed accord with those given in Appendix to this Supplementary Planning Document.

## **4. Affordable homes for local people: exception sites**

### **Introduction**

- 4.1 “Exception sites” are in locations that would not normally obtain planning permission for new housing development. The exception is made because it is a development of affordable housing for local people. The number of dwellings will be determined depending on the identified need, size of site and location, or be single plot exception site. The former are normally developed by Registered Providers (housing associations) for a mixture of rental and Low Cost Home Ownership, while the latter are usually individuals who wish to utilise the Council’s Single Plot Exception Site scheme (i.e. owner occupied affordable housing). The Core Strategy treats both types of exception sites in the same manner.
- 4.2 Our policies are intended to engender additional community resilience and sustainability by encouraging investment in the stock of rural affordable housing. We seek to maximize the opportunities for the delivery of affordable housing by:
- Registered Providers, philanthropic organizations, Community-Led venture groups such as community land trusts, landed estates and other potential developers.
  - Private individuals and families, to build their own affordable home on land that would not normally obtain planning permission through the single plot exception site scheme.
- 4.3 For exception sites, the Council will provide a draft section 106 legal agreement to the applicant detailing the requirements and restrictions that will apply. There will also be an expectation that Registered Providers will also enter into S106 in respect to exception sites.

### **Exception sites criteria**

- 4.4 Core Strategy Policy CS11 permits, “exception sites for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and Other Key Centres, Community Hubs, Community Clusters and recognisable named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.” Core Strategy Policy CS5 allows such homes in the countryside (with special safeguards in the Green Belt) “on appropriate sites which maintain and enhance countryside vitality and character”. This is qualified by SAMdev Policy MD7a which states that, “suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements.”

## Green Belt

- 4.5 A small part of Shropshire is in the metropolitan Green Belt that surrounds the Wolverhampton / Birmingham conurbation. The National Planning Policy Framework (NPPF) places stronger restriction on development in the Green Belt than the wider countryside but does allow for "limited affordable housing for local community needs under policies set out in the Local Plan". Core Strategy Policy CS5 and SAMDev Policy MD6 set out the local policies. Policy CS5 specifically permits "*limited* local needs affordable housing" in the Green Belt on exception sites that accord with Policy CS11, namely, in and adjoining recognisable named settlements. These include appropriate Green Belt settlements.

## Local needs

### Local needs on all exception sites

- 4.6 The Core Strategy allows *local needs* affordable housing *in or adjoining settlements* of all sizes, including appropriate settlements in the Green Belt. Exception sites must, first and foremost, relate to evidenced local need of the settlement or parish and be reflective of the size of the community and its local economy, enabling local people to live in close proximity to their work and/or family support network. Secondly, they must be in or adjoining an existing settlement or consistent with the pattern of development in remote areas of the County.
- 4.7 Where there is no clear evidence that the exception scheme is proportionate to need after taking into account the guidance above, together with the size and character of the settlement and existing affordable housing provision in the local area, then this can form the basis for a refusing a planning application.
- 4.8 The Council will take account of any recently prepared and adopted Parish, Town and Neighbourhood Plan or local design statement as well as Shropshire Homepoint Lettings data, information from parish housing needs surveys and information in the local housing market assessment or other sources when determining the requirement for local needs affordable housing in a specific area. Relevant 'Place Plan' documents may also be used help inform this process.
- 4.9 The Single Plot Exception Sites scheme (SPES) encourages those with resources (both land and finance) to invest them in the stock of rural affordable housing to the benefit of the local community in the long term as when the first occupier no longer has need for the dwelling, they will transfer it at the appropriate affordable value to another local person in need. Thus, the 'community benefit' of providing the affordable dwelling in the first place is itself recycled.

## Location

- 4.10 Exception sites must be demonstrably part of, or adjacent to, a recognisable named settlement. Larger settlements, such as market towns and villages, obviously qualify as recognizable named settlements.
- 4.11 However, the Council recognise that in certain parts of the County the population is more sparsely populated and can lack a clearly identifiable settlement, but nevertheless functions as a community. Such sporadic patterns of development are more evident in the southern parts of the County and therefore consideration based on local settlement patterns will be given to plots in these areas.
- 4.12 A proposed exception site should not adversely impact on the landscape, local historic or rural character (for example due to an elevated, exposed or other prominent position). Proposals that adversely impact on these aspects will be regarded as being unacceptable and thus resisted.
- 4.13 Each case is treated on its merits, but the following guidelines apply when assessing whether a small hamlet constitutes a “recognisable named settlement”. A settlement always comprises a group of houses occupied by households from different families. The group becomes a settlement due to the *number and proximity* of the houses in the group. Although a matter of judgment in each case, particularly for settlements where the number is small or where the houses are dispersed, for example strung along a road, it is the *combination* of these two factors that determines whether the dwellings constitute a settlement.
- 4.14 Recognisable settlements are also characterised by how local people refer to them – by a place name that is shared by a number of dwellings. This might not necessarily be reflected in the postal address. Whether a site is in a recognizable settlement will be influenced by the character of the settlement as set out at paragraph 4.15 below. The views of the local Shropshire Council Member about whether the site is in or adjoining a recognisable settlement (as required by Core Strategy Policy CS11) will be canvassed by the case officer at the pre-application stage to inform their professional judgement. The case officer may seek the views of the Parish Council for additional assistance in cases where it is a finely balanced judgement. The identity of the applicant is kept anonymous at this pre-application stage.
- 4.15 Because a settlement is a *relationship* between different properties, the limits of the settlement are defined by where the relationship peters out. This varies from settlement to settlement, depending on a number of factors. For example, a site a short distance from a loose-knit settlement may be considered “adjoining” while a similar distance in a tightly clustered settlement would not be. Larger settlements also have a wider “pull” or “sphere of influence” than small settlements, influencing the relationship between a site and the settlement.



*Example of a loose-knit settlement    Example of a tight-knit settlement*

4.16 All sites will be assessed on an individual basis and be subject to the same considerations as other developments with regard to sustainable design, environmental networks and water management<sup>7</sup>.

## **Scale and design**

4.17 Exception site developments must be reflective of housing need. The scale of any individual scheme must reflect the character and scale of the settlement.

4.18 There will be an expectation that an application for a single plot exception site will be in full and not outline given the high quality design required. Normal planning criteria relating to highway safety, neighbour amenity, wildlife and heritage considerations, open space, etc. will apply. An early dialogue with Planning Officers is essential and account should be taken of any relevant duly adopted Village Design Statements or Parish Plans. There will be additional requirements in Conservation Areas and in other locations where designations apply. In the Shropshire Hills Area of Outstanding Natural Beauty (AONB), the AONB Management Plan should also be taken into account.

4.19 The most environmentally sustainable and appropriate site within the applicants ownership will be sought. For all exception sites, the following requirements in terms of design of the proposed dwelling and the appearance of the curtilage around it must be met:

- Materials of construction and external finishes should be sympathetic to those in use locally.

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<sup>7</sup> Core Strategy Policies CS6, CS17 and CS18, SAMDev Policies MD2, MD12 as supplemented by the Sustainable Design SPD.



- Standardised, “off the peg” designs of the type found on large estates will not be accepted. Design elements – chimneys, eaves, dormers, doors and windows for example – will be expected to reflect the site’s unique context.
- Garages and outbuildings should reflect the local rural vernacular in layout, style and materials. Garages should be no larger than a standard double garage and shall not be of a size that allows for the roof space to be used as ancillary floor space. The maximum size for a double garage will be 37 sq. metres. Garages located within 2 metres of the affordable dwelling will be regarded as ‘attached’ for the purposes of the single plot exception site scheme.
- Important features such as trees, hedgerows and boundary walls which contribute to the character of the site or the area in general, must not be lost or substantially altered as a result of the development without direct replacement resulting in demonstrable betterment over the altered features.
- Any new boundaries created must utilise locally native species of trees and hedgerow.
- The Council will be looking to avoid the introduction of urban features such as brick walls defining visibility splays and entrances, and the use of suburban style close-boarded fencing to define boundaries.
- Driveways will need to be constructed in material that is appropriate to the area. Natural finishes will always be preferred to brick pavements and plain or coloured tarmac.
- Proposals that are two storey in design should maximise potential floor area and avoid voids above ground floor. Therefore proposals that only partial use the first floor or include a void in entirety will not be acceptable.

4.20 Pre-application discussion of your design ideas with the Development Management service at an early stage is always advisable.

## **Tenure**

### **Tenure - general**

4.21 The appropriate mix of tenures on an exception site will be informed by local housing information regarding identified community needs. This can include information from duly prepared and adopted Town, Parish or Neighbourhood Plans or Village Design Statements together with Choice Based Lettings data, the Shropshire Local Housing Market Assessment and any relevant parish needs survey.

4.22 In the absence of contrary local housing information, a 70%:30% split between rented housing (70%) and low cost home ownership (30%) will be

the starting point for negotiations (unless directed otherwise as a result of legislative and/or policy changes). Detailed definitions relating to the specific types of affordable housing tenure acceptable to the Council are given in the Appendix of this Supplementary Planning Document.

- 4.23 Shropshire Council expects prospective applicants to seek clarification in advance on the number, tenure, type and size of affordable housing required in the course of pre-application discussions with the Council's Planning and Housing Enabling Officers. A schedule of the agreed affordable housing, showing the tenures, property type and size, and locations within the development, must be provided with the application. Dwellings on exception sites must also be constructed to a minimum of an equivalent to the 'Code for Sustainable Homes' level 3 for energy and water efficiency.
- 4.24 As part of our enabling role, we encourage developers to construct affordable homes to gross internal floor areas which are included in the Nationally described space standards DCLG March 2015
- 4.25 The appropriateness of affordable homes is not just determined by floor space, but also includes consideration of whether their layouts are acceptable. The provision of larger affordable homes (e.g. 5+ bedroom) and bespoke 'supported housing' will be negotiated on a case by case basis subject to evidence of local need.

## **Prioritising local people**

### **Definition of "strong local connection"**

4.26 It is necessary for prospective occupiers to demonstrate strong local connections to the area where the settlement in question lies. This will require them to satisfy at least **two** of the following criteria for at least one of the adult members of the household:

- Their parents were permanently resident in the local area at the time of the applicant's birth;
- They were in permanent residence in the local area for any period of five years as a child attending a local school, (or who for special reasons attended a school outside of the local area but would have been expected to attend a local school but for those special reasons);
- They are currently lawfully resident in the local area and have lived there for at least the previous 3 years (**5** years in the case of applicants seeking to utilise the 'single plot exception site scheme');
- They don't currently live in the local area but have previously lived there at some point for 15 continuous years as an adult;
- They are currently employed or routinely carry out self-employed work within either the local area or 5km of the site;

- They have a confirmed written offer of permanent work within either the local area or 5km of the site;
- They can demonstrate active community involvement in the local area sustained for at least the previous 2 years; or are determined by the Parish Council as having some other form of strong connection with the local community and/or its hinterland.
- Their parents currently live in the local area; or another close family member who provides or requires a substantial degree of support currently lives in the local area;
- If over 55, they have a close family member currently living in the local area

4.27 The above criteria are also replicated in the model section 106 legal agreements for exception sites. For single plot exception sites, the personal eligibility of applicants' is determined by the Council's Housing Enabling Officers (see paragraph 4.26 above). For affordable homes managed or part owned by a Registered Provider, the Registered Provider is required to assess eligibility as appropriate.

#### **Definition of "local area"**

4.28 The Core Strategy definition<sup>8</sup> of "local need" is:-

"the need in the settlement and its hinterland. The extent of a settlement's hinterland is essentially its sphere of influence, and ends where another settlement's sphere of influence becomes more dominant. For practical purposes this can be approximated by a set distance, or a parish boundary. In relation to affordable housing, section 106 legal agreements will define the extent of "local area" in relation to a particular development. "Local area" can differ between settlements and over time. Consequently the extent of "local area" is defined in the Type and Affordability of Housing SPD, as a document that is both more detailed and more readily updated than the Core Strategy."

4.29 For rural single plots, the "local area" is initially defined as the parish<sup>9</sup> in which the site is located.

4.30 For exception sites involving more than one dwelling, the 'local area' is initially defined as the Parish. Where the settlement bridges more than one parish, 'local area' includes all of the parishes in the settlement. Where the settlement is part of a Community Cluster, the meaning of 'local area' may also be extended to encompass all parishes included with that Community Cluster.

4.31 The cascade mechanism then applies as below.

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<sup>8</sup> Set out in Core Strategy glossary.

<sup>9</sup> N.B.The Parish is not necessarily the same as the Parish Council area.

### **Cascade' approach**

4.32 Eligible local people will be considered first followed by a wider catchment of eligible occupiers. The 'cascade' approach is a progressive widening of the geographic area together with timescale for each area. Such provision may be revised from time to time to take account of market changes.

### **Registered Provider Cascade**

4.33 For Registered Provider managed rented and Shared Ownership dwellings, a Local Lettings Plan may detail the agreed local cascade. Any newly introduced tenures will be subject to the same cascade unless otherwise directed as a result of legislative and/or policy changes. In the absence of any such Local Lettings Plan the default cascade will be as follows:

1. For an initial period of six weeks, persons having a strong local connection with the "local area", where this is defined as being any parish forming part the settlement where the site lies;
2. After six weeks, the definition of "local area" is extended to include a ten kilometre radius of the Site (excluding from that radius any settlements exceeding 3,000 persons), **and** where the settlement is part of a Community Cluster (as defined in Core Strategy Policy CS4), all parishes included within that Cluster.
3. After twelve weeks, the definition of "local area" may be further extended to also include anywhere within the Shropshire Council area as a whole, including all settlements exceeding 3,000 persons.

4.34 A model section 106 legal agreement for such sites is contained in Appendix and the provisions are also contained within the meaning of the standard planning conditions given in paragraphs 5.60 to 5.67 of this Supplementary Planning Document.

### **Cascade for owner-occupied exception sites**

4.35 For owner-occupied affordable 'single plot' or other forms of low cost home ownership not managed by Registered Providers', the resale cascade needs to satisfy mortgage lenders that the mortgagee will not be trapped in a property he/she cannot sell. Current best practice recommendations are that the dwelling must be free from local occupancy and housing need restrictions within 20 weeks of it being put on the market by the owner.

4.36 The default cascade contained within section 106 agreements for this type of housing on exception sites is therefore:

1. For an initial period of twelve weeks, persons with a need of affordable housing having a strong local connection with either the parish or within a ten kilometre radius of the site, excluding from that radius settlements exceeding 3,000 persons;

2. After twelve weeks, persons with a need of affordable housing that arises within the Shropshire Council area including settlements exceeding 3,000 persons; or a sale to the Council or a body nominated by the Council;
  3. After a cumulative period of sixteen weeks, the dwelling may be sold (for that particular sale only) without restriction as to the qualification of the purchaser. However, it must still be sold at the affordable price.
- 4.37 The above cascade allows for an additional two week period at the beginning of the sale process for the affordable price to be determined and a suitable marketing plan to be agreed between the Owner and the Council.
- 4.38 In the unlikely event of the property failing to sell after a cumulative period of twenty four weeks, the owner may apply to the Council for all of the affordable housing restrictions to be removed from the Land Registry title. The dwelling may then be sold at full value on the open market with 50% of the value of the difference between the affordable and market prices being paid to the Council and recycled into the provision of affordable dwellings elsewhere in Shropshire. This arrangement is to balance trying to ensure that these properties remain affordable in perpetuity with minimising the financial risks for lenders in order to ensure that affordable properties for outright sale are mortgageable.

### **Local Lettings Plans**

- 4.39 The allocation of tenants or purchasers for affordable housing is done through operation of both the section 106 legal agreement *and* Shropshire Council's Housing Allocation Policy and Scheme. Selection of potential candidates will be undertaken strictly in accordance with the terms of the section 106 agreement (or relevant planning conditions). Housing need criteria are then applied in accordance with the Housing Allocations Policy and Scheme. A 'Local Lettings Plan' may be applied in addition to the section 106 agreement and/or planning conditions.
- 4.40 Local Lettings Plans are negotiated and time-limited and (form the first stage in any cascade for lettings) local variations allowed by the Shropshire Housing Allocation policy. They normally relate to a specific named settlement or housing development and balance priority for allocation between different household types and factors of housing need. They are also a useful housing management tool in helping to foster and sustain balanced communities. The Local Letting Plan should include evidence to support the various objectives of the plan. For example if a specific percentage of properties are required to be allocated to those in employment then evidence is required to support this restriction.

### **Ensuring affordability in perpetuity**

- 4.41 Affordable housing that is granted as an exception to normal planning policies must, so far as is possible, remains within the affordable housing stock in

perpetuity. This will be managed through a section 106 legal agreement in all cases.

- 4.42 To ensure affordability in perpetuity (defined as the lifetime of the building), wherever possible restrictions will be put on the Right to Buy / Right to Acquire for rented homes managed by Registered Providers, and on the ability of purchasers to 'staircase' beyond 80% ownership for Shared Ownership. Similar restrictions will also be applied to privately provided affordable housing for rent and shared ownership or equity share purchase together with mechanisms to ensure that their values remain affordable over unless directed otherwise as a result of legislative and/or policy changes.
- 4.43 The affordable value of housing for outright sale on exception sites is expressed within a section 106 agreement as a simple fixed percentage of prevailing open market value. This percentage of open market value will apply in perpetuity and is used to determine the sale value applicable at subsequent changes in ownership. The section 106 legal agreement will also place a Restriction on the Title of the property, to the effect that the property cannot change hands without the written consent of Shropshire Council. Therefore the Land Registry will effectively enforce this provision, as it will not be possible to register a new ownership with the Land Registry without the appropriate written consent from Shropshire Council.
- 4.44 Homes developed under the Council's single plot exception site scheme are valued as follows:

For ease of both mortgageability and administration the Council deems that the value of completed single plots is normally 60% of the prevailing full open market value (OMV). The percentage figure is incorporated into the section 106 agreement and currently translates to a potential 'target valuation' of around £145,000 for a 106 square metre dwelling (*inclusive of a notional £10,000 for land value but disregarding any garaging or other incidental buildings constructed within the curtilage.*)

- 4.45 In exceptional cases, the percentage of Open Market Value will be assessed on an individual 'off-plan' basis by the Housing Enabling Officer to ensure that the property is both financially viable for the owner to develop and also remains affordable for future purchasers in the local area. It is envisaged that this provision will only be exercised in a limited number of circumstances and where the variation is greater than 10%. This may include the following scenarios:

1. Where the local property market lags so far behind the normal position in Shropshire so as to make 60% Open Market Value an unviable proposition for the owner to develop - (increased % against lower than normal OMV to maintain the potential affordable sale value at around the target of £145k).
2. Where through special circumstances (e.g. specialist wheelchair standard) a property larger than 106 sq. m is permitted - (reduced % against higher than normal OMV to maintain the potential affordable sale value at around the target of £145k).

3. Where the permitted affordable dwelling is demonstrated to be unviable for the named individual to develop due to the discovery or imposition of abnormal costs beyond their reasonable control - (increased % to reflect late discovery of abnormal development costs to bring the project as a whole back into viability).

- 4.46 Because the affordable price is a percentage of Open Market Value, it will go up, or down, in line with local market prices.
- 4.47 Other emerging rented and low cost home ownership models and tenures may potentially be acceptable on exception sites. The 'local need', 'allocation', 'affordability' and 'in perpetuity' requirements for any such tenures will be determined on a case by case basis. However they will be broadly similar to those required for the established low cost home ownership tenures already permitted through this Supplementary Planning Document (See Appendix). The advertising and marketing of such properties will be carried out through a combination of the Council's preferred Choice Based Lettings system and direct marketing by the developer to qualifying people in accordance with the terms of a section 106 agreement.

## **Standard planning conditions for "exception sites"**

### **Standard condition regarding design requirements**

- 4.48 In order to provide a consistent and manageable approach to exception sites, Shropshire Council proposes to use standard planning conditions on all exception sites to ensure that sustainable construction, energy and water efficiency aspects equivalent to a minimum of level 3 of the Code for Sustainable Homes will apply to *all* schemes involving affordable housing until this is exceeded by changes in the Building Regulations. The recommended condition is:-

*The new (affordable) dwelling(s) hereby permitted shall be constructed to a minimum of an equivalent to the Code for Sustainable Homes level 3, for energy and water efficiency. REASON: To ensure the dwelling is constructed with a view to reducing its carbon footprint.*

### **Standard conditions for exception sites promoted by Registered Providers**

- 4.49 Local occupancy and maintaining affordability in perpetuity is usually controlled through a section 106 agreement. However, where a Registered Provider is the applicant/developer these aspects can normally be controlled by a standard planning condition which sets out the affordable housing requirements that apply. The local occupancy condition will apply the cascade approach, giving persons in housing need with local connections priority, as set out previously in this Supplementary Planning Document.

4.50 The Standard Condition to ensure affordability in perpetuity is as follows: -

*The dwellings shall not be let or occupied other than either:-*

*a. under a tenancy in accordance with the normal letting policy of a Registered Provider;*

*or*

*b. by way of a Shared Ownership lease or equity share arrangement whereby the occupier cannot progress to or achieve a share greater than 80% of the whole;*

*and/or*

*c. by way of discounted sale price secured through a restriction on the Land Registry title of the dwelling providing that the development has been made in accordance with the Council's "Cross-Subsidy" model for exception site housing in accordance with the relevant provisions given in the Appendix of the Supplementary Planning Document.*

*REASON: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 to ensure affordability in perpetuity.*

4.51 The standard conditions to prioritise local people by controlling occupancy of the property are:-

*In addition to the requirements of the Shropshire Affordable Housing Allocation Policy and Scheme, all lettings by Registered Providers shall meet the local connection and/or cascade requirements set out in the Shropshire Type and Affordability of Housing SPD or any policy or guidance that may from time to time replace it.*

*REASON: To ensure compliance with Shropshire Core Strategy Policy CS11 with regard to local needs and prioritisation for local people.*

*The affordable housing units for rent shall be advertised through the Shropshire Choice Based Letting scheme, and allocated through the Shropshire Housing Allocation Policy and Scheme. The affordable housing units for sale shall be advertised in the Shropshire Choice Based Letting scheme.*

*REASON: To ensure that all affordable properties are advertised to local people and that the Shropshire Housing Allocation Policy and Scheme (in combination with any local lettings plan or section 106 agreement) is applied in allocating the affordable properties for rent.*



4.52 A section 106 legal Agreement may potentially be necessary on sites immediately adjoining a settlement exceeding 3,000 population to remove the ability to staircase (i.e. the ability to purchase homes outright from the Registered Provider) or to control other affordable houses available for purchase as part of a mixed development.

## 5. Self Build and Custom Build

- 5.1 The UK is a long way behind most other countries when it comes to the proportion of homes built via self build/ custom build. The need to look more closely at self-build as a means of extending the range of intermediate affordable housing is as important in Shropshire as it is nationally and is now recognised in the National Housing Strategy 'Foundations for Growth' 2011 and the NPPF 2012 (Para 50). Shropshire Council will continue to explore ways of supporting self build, either individual bespoke properties or group projects, as part of achieving mixed and balanced communities. More information is available on Shropshire Councils website <http://www.shropshire.gov.uk/affordable-housing/> and via the self-build portal at [www.selfbuildportal.org.uk](http://www.selfbuildportal.org.uk).
- 5.2 Shropshire Council as one of the Vanguard Authorities is promoting self-build homes to provide a wider choice of quality homes for owner occupation, meeting the needs of different groups in the community. As part of this Shropshire Council has set up a Register which is provided and maintained by the Local Authority for individuals or groups to register their interest, who wish to acquire a serviced plot of land to complete a self-build or Custom Build home. If you wish to register please visit <http://www.shropshire.gov.uk/affordable-housing/right-to-build/>
- 5.3 Self-build and Custom build plots must be sold with the benefit of outline planning permission and access and services to the boundary should be in place. The plot provider will be required to enter into any necessary agreements or agree to conditions on the planning decision to ensure the roads will be brought up to an adoptable standard and services will be available for connection.
- 5.4 The Council will expect a range of plot sizes to meet the demand and affordability identified by the register and market research in the surrounding area. Affordable self-builds are dealt with under the build your own affordable home scheme and open Market self-builds can be either an individual plot, multiple plots all for self-build or self-build plots on general development sites.
- 5.5 The Council recognises and fully supports the importance of this emerging sector and notes the reasons for a self-build range from necessity (affordability) to the aspirational. The Council also needs to balance the requirement for such applications to deliver appropriate affordable housing contributions, used to help fund new local needs homes. Therefore a number of changes to AHCs are proposed to qualifying self-builders (granted self-build relief from Community infrastructure Levy)
- Proposed self-build homes of 80sqm or less are exempted from AHC's.
  - Proposed self-build homes in excess of 80sqm will attract an uncapped (previously capped at 100sqm) AHC at the prevailing local rate (e.g. 200sqm house = 200sqm – 80sqm = 120sqm to be used in the relevant formula).

- Should the applicant pay the AHC through a unilateral undertaking or other such Council approved methodology on the granting of the planning permission, the AHC amount will be reduced by 20%. This will negate the need for a relevant section 106 agreement for the AHC.
- In exceptional circumstances, when an AHC that is subject to a s106 agreement is due and the relevant person is unable to pay the AHC, the option of converting that liability to a charge on the property may be offered. The outstanding charge will be subject to index linking or registered as a percentage of the properties open market value.

### **Individual and Multiple Self-Build Plots**

5.6 All Self-build individual plots must be serviced or the applicant must ensure that the Local Authority is satisfied that servicing will be possible by the individual builder. If multiple plots are provided the owner must ensure that all plots are serviced and a base design code is included with the outline permission.

### **Self-Build on General Development sites**

- 5.7 A proportion of self-build plots will be sought on all open market development sites where there is an identified need for self-build plots in the parish area, as identified on the Self- Build register. The number and size of plots to be provided will depend on the level of need.
- 5.8 An open market site which provides self-build plots will need to be phased so the open market housing and access is in a separate phase to the self-build plot and each self-build plot forms a separate phase. Each self-build plot will then be submitted for reserved matters by the intended occupant. The serviced plots should be made available on completion of no more than 50% of the whole site or the individual phase.
- 5.9 Where a self-build plot has been sold to a customer and then built out by the original plot owner to their designs, or from a specific range of house designs then the unit will not be considered a self-build.
- 5.10 The Council will not normally accept self-build plots as part of any on site affordable housing provision, however if there is an identified need for affordable home ownership in the site area identified on the self-build register then 1 or more of the low cost affordable homes could be provided as a self-build plot.
- 5.11 The affordable self-build plots will be offered to local people who satisfy the single plot exception site criteria and who have registered on the Self-build register. As some of the affordable self-build plots will be located in urban areas the local connection criteria will refer to the Town Council area in the first instance.
- 5.12 The affordable plots will be sold at no more than £10,000 per plot and the restriction on resale, extensions and value will apply as under the Single Plot Exception Site Policy outlined below.

- 5.13 The affordable self-build plots could also be delivered through a partnership with a Housing Association.

### **Design Codes**

- 5.14 To ensure quality design the Council will agree a design code on sites of 10 or more self-build homes or if a site is located in a sensitive or constrained area. This will be a set of rules/ limitations that establish the build and design parameters of individual plots and will differ depending on the site and its location. The list could include (but is not limited too) items such as height and massing, density, building lines and frontages, soft landscaping and parking.

### **Requirements of sales**

- 5.15 Plots must be marketed at no more than the open market price for a serviced plot in the local area and be advertised on the relevant section of Shropshire Councils website alongside the usual marketing procedure for a self-build plot.
- 5.16 The plots must be marketed for at least 12 months at the open market value for self-build before applying for a change to the permission or to build the properties out.
- 5.17 A Section 106 Legal Agreement will be required to ensure the plots are retained for self-builders and will contain timescales for development on each individual plot, for example that the development must be started within 12 months of obtaining full planning permission and be completed within 3 years of commencement. The Agreement will also ensure that the self-builder must use the completed property as their main residence and do so for at least 3 years from completion.

### **Single Plot Exception Site (SPES) Dwelling**

- 5.18 Affordable home ownership on rural sites can be considered as an exception under the SPES Scheme. Applicants will normally be the prospective occupiers of the proposed single plot exception site dwelling and existing homeowners will be required to dispose of their current home (for example where the proposal relates in a downsize). Speculative single plot development is **not** permitted. To qualify for the scheme, all applicants must demonstrate that they meet the following criteria to the satisfaction of the Housing Enabling Officer
- 5.19 (1) That they are in housing need and are unable to identify or afford a suitable alternative home currently available for sale on the open market in the local area or within 5km of the proposed site.

- *Housing need* is demonstrated where the household unit has no independent home of its own, or is renting and would like to become

an owner-occupier, or occupies accommodation deemed by the Council to be unsuitable for either their current or reasonably foreseeable future needs for some other reason.

For example, the current housing may be too large or too small for the household; be of an unsuitable type, size or design due to the impact of age, a medical condition or mobility issue; be in a poor state of repair; be available to the household on an insecure basis; or be too costly for them to maintain or sustain. It may be in a location that is considered to be too far from existing employment, schools or support networks and the cost or availability of transport may be prohibitive to the particular household.

These examples are not exhaustive and other relevant considerations may also be taken into account when determining whether or not a household is in housing need.

- *Unable to identify or afford a suitable alternative home* is demonstrated where:

(i) At the date upon which the applicant applies to the Housing Enabling Officer for the scheme, they can demonstrate that there are no suitable properties available for sale within the local area and within 5km of the site, or up to the Shropshire Council border if this is closer (excluding from that radius settlements exceeding 3,000 population); *or*

(ii) In purchasing a suitable home that is potentially available, the monthly repayments on any mortgage required by the applicant (after allowing for a 10% deposit) would be greater than 25% of their household's gross monthly income.

(2) That they have a strong local connection to the area (as set out in paragraph 4.26 of this SPD). Applicants are expected to be proactive in obtaining formal written confirmation of their 'strong local connection' from the relevant Parish or Town Council.

(3) That their housing need *should* be met in the local area. This is satisfied if:

a. They need to live in the local area for employment reasons with the exception of:-

- Home based businesses and other activities without a significant client base within the Parish or 5 km of the site that are not restricted to one specific area and therefore can effectively be undertaken in a range of locations;

- Where the occupational need is land based, such as agricultural activities then there will be an expectation that a rural workers dwelling will be applied for in the first instance.
  - b. They need to live in the local area to receive or provide support to / from a close relative, including (but not limited to) childcare or supporting an elderly or disabled relative. Evidence will be expected to satisfy the following :-
    - Where a relative or applicant has a long term health condition or disability and associated difficulties with daily living and/or mobility activities, there will be an expectation that they will normally be eligible to appropriate benefits such as 'Attendance Allowance', 'Personal Independence Payment' or 'Disability Living Allowance' and the person providing the support be eligible or in receipt of the Carer's Allowance .
    - Child care –The persons providing the child care must provide and demonstrate the regular assistance given and the applicant demonstrate why this support cannot be easily met in a formalised child care setting
    - They can demonstrate with evidence active community involvement within the local area for a minimum period of 2 years.
- 5.20 Eligibility for the scheme is confirmed in writing by the Housing Enabling Officer consideration of all subsequently submitted information to support their case. A positive determination is dependent upon the applicant satisfying the criteria listed in paragraph 5.11.
- 5.21 In the case of owner-occupied affordable tenures (eg SPES scheme), **the dwelling size will not normally be permitted to exceed 106 square metre gross internal floor space** (defined by the Royal Institute of Chartered Surveyors (RICS) as the area within external walls including internal partitions). Attached garages will count against the 106sqm. Detached garages and other outbuildings for storage purposes will not count against the 106sqm provided they are located further than 2 metres from the dwelling and therefore may be permitted, where they are suitably designed and appropriate to their context. Any permitted buildings will be subject to suitable conditions to ensure they are for not simply a means of circumventing the 106sqm maximum dwelling size.
- 5.22 For SPES homes, the overall plot size must be appropriate in terms of the general pattern of development in the surrounding area. However, **a plot size exceeding 0.1 hectare will not normally be permitted.** Sites which form part of the curtilage of an existing property must provide an appropriately sized plot for the new dwelling. In this respect, it will be important to achieve a ratio of dwelling size to overall plot size which is in keeping with surrounding properties. Such sites must also respect the existing character and setting of the original property, so as not to adversely alter that character or create a cramped form of development.

### **Tenure – single plot exception site scheme**

- 5.23 The SPES scheme enables qualifying local people to fund the development of their own home on exception site land from their own resources, i.e. capital from savings or the sale of existing property as well as through a mortgage. Whilst the planning permission and total project / construction costs are similar to those of an equivalent open market property built by a developer, dwellings commissioned under this scheme are significantly cheaper for applicants due to the avoidance of speculative land values and developer profit. Additionally, there is often a significant element of 'sweat-equity' provided directly by the applicant and their friends/family which further reduces the total cost.
- 5.24 The future re-sale value of the affordable home is fixed in perpetuity below open market value (normally 60% of market value) to ensure that it remains affordable for subsequent occupiers. The valuation is based upon the dwelling itself and therefore disregards the potential additional gain from any garaging or other incidental buildings constructed within the curtilage. Purchasers of the property in the future must also meet the local needs criteria detailed in paragraph 5.11 or, if applicable, the cascade criteria detailed in paragraph 5.48.
- 5.25 Qualifying applicants must be in housing need, be unable to access a suitable home currently available on the open market in the Parish (or within 5km of the site), have a strong local connections to the Parish (see paragraph 5.37) and a need to live locally. Applicants will normally be the prospective occupiers of the proposed affordable dwelling and speculative development of this tenure is **not** permitted.
- 5.26 As a requirement of the section 106 legal agreement, the property cannot change hands without the written consent of Shropshire Council. The Council will require the new purchaser to pay the prevailing 'affordable' price and meet the local needs or cascade criteria as defined in the section 106 legal agreement. Inheritance of the property by family members is permitted, and they may occupy the dwelling providing that they meet the local needs criteria detailed in paragraph 5.19, or otherwise let or sell it in accordance with the provisions of the s106 agreement.

### **Standard conditions for single plot exception sites**

- 5.27 In order to ensure that dwellings approved are, and will remain, affordable, a dwelling size restriction will be imposed. The size of dwellings will normally be restricted to no more than 106 square metres gross internal floor space, with a curtilage normally not exceeding 0.1ha. In the majority of cases, 106 sq. m is adequate for a family of up to six persons. Larger properties are, by definition, more expensive and run counter to the primary aims of ensuring affordability. Therefore the following standard condition will be applied to SPES housing schemes:-

*The dwelling hereby permitted, shall not exceed 106 square metres gross internal floor area, including any future extensions. No further internal habitable space shall be created within the dwelling by internal alterations. REASON: To ensure that the dwelling is of a size appropriate to the local affordable housing market.*

- 5.28 Permitted development rights of the affordable dwellings will normally be removed in order to retain control over future extensions. Applications for extensions and adaptations will be considered on their merits, including the personal circumstances of the applicant such as the needs of an occupant with disabilities or to accommodate appropriate extensions for significant family growth or formal homeworking.

*Notwithstanding the provisions of Schedule 2 part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall be erected within the curtilage of the dwelling hereby permitted without the prior consent in writing of the Local Planning Authority. REASON: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and to maintain the future affordability of the dwelling.*

- 5.29 While households that can afford suitable open market properties are expected to meet their needs in the market by moving house, the Council recognises that there are genuine difficulties faced by growing households already occupying affordable housing, due to its chronic shortage in Shropshire. Consequently it may be acceptable to enlarge an existing affordable house in order to accommodate the needs of the existing household, but applicants should be aware that its potential sale value will remain restricted as if it were still a maximum of 106 square metres and therefore there will be no financial profit from an enlargement.



## 6. Houses in Multiple Occupation.

### Introduction

- 6.1 Houses that provide private rented accommodation for at least 3 people, who are not all members of the same family, are known as 'houses in multiple occupation' (HMOs). These properties provide affordable and convenient living accommodation for many people, including students, young professionals and those on low incomes.
- 6.2 Some larger HMOs are purpose built, e.g. student accommodation, but many are created through the conversion of buildings, both in residential and other uses. In Oct 2010, legislation was amended to allow Permitted Development Rights (PDR) to change the use of a property from a dwelling house (Class C3) to a HMO (Class C4) for 3 to 6 residents without the need for planning permission. This creates or allows development that is unmanaged.
- 6.3 The University Centre Shrewsbury is an exciting development for Shrewsbury and Shropshire. It brings many social and economic opportunities, but there are also recognised challenges that need to be identified, monitored and if necessary managed where and however possible. The need and growth of suitable accommodation for students is well established, and a feature of all towns and cities where universities are in place.
- 6.4 Local Plan policies set out the approach to delivering mixed and balanced communities and seek development that respects amenity value. Core Strategy Policy CS11 seeks housing development which helps balance the size, type and tenure of local housing stock. Core Strategy Policy CS6 requires all development to contribute to the health and wellbeing of communities, including safeguarding residential and local amenity. SAMDev Plan Policy MD2 requires development proposals to contribute to and respect locally distinctive or valued character and existing amenity value by (amongst other things) responding to the form and layout of existing development and how it functions.
- 6.5 These Policies are particularly relevant when considering the creation of HMOs that do not fall under PDR, as it is generally recognised that concentrations of HMOs can often impact upon residential amenity and can, in some cases, create particular issues with regard to:
- Increased levels of crime and the fear of crime;
  - Poorer standards of property maintenance and repair;
  - Littering and accumulation of rubbish;
  - Noises between dwellings at all times and especially at night;
  - Decreased demand for some local services;
  - Increased parking pressures; and
  - Lack of community integration and less commitment to maintain the quality of the local environment.
- 6.6 This chapter of the SPD outlines the criteria that may be used to determine planning applications for the development of proposals for large HMOs (7 or

more residents), which are regarded as a “Sui Generis” use and require planning permission, whether through conversion or new build.

- 6.7 The change of use from Class C3 (dwelling houses) of the Town and Country Planning (Use Classes) Order 1987, as amended; to a C4 use falling within Class C4 (houses in multiple occupation) of that Order is permitted development. The Council can only require an application for planning permission when an Article 4 Direction, which removes PDR, is made in certain defined areas. The imposition of Article 4 Directions, and the formal Local Plan policy response, has to be based on evidence. The kind of approach that such a policy is likely to set out where Article 4 Directions are applied is shown in the Appendix.

### **Relevant Definitions of HMO**

- 6.8 The definition of what constitutes a HMO primarily relies on legislation concerning the private rented sector i.e. Housing Act 2004. In simple terms, an HMO is a property where occupants share one or more basic facilities (i.e. a toilet, personal washing facilities or cooking facilities), and is occupied by 3 or more people who do not form a single household and occupy the property as their only or main residence. There is also a requirement that rent is payable by at least one occupant of the property.
- 6.9 For planning purposes, HMOs are identified within the Town and Country Planning (Use Classes) Order 1987, as amended, as “use of a dwelling house by 3-6 residents as a “house in multiple occupation” (Use Class C4) or a large HMO (7 or more people sharing) (Sui Generis). HMOs are not defined within the Order, which instead relies upon the definition given within the Housing Act 2004.

### **HMO's - Local context**

- 6.10 It is considered that the growing significance of the HMO as part of the local housing offer, particularly in relation to Shrewsbury as the principal urban centre and the growing University population will require bespoke Local Plan policy/policies adopted through the forthcoming review of the Local Plan. Pending that review, this chapter of the SPD provides appropriate guidance for the implementation of Policies CS6, CS11 and MD2 in relation to HMOs that currently require permission.
- 6.11 Welfare reforms, demographic changes, housing affordability and other economic factors that make it increasingly difficult for younger people and those on lower incomes to obtain mortgages, have all contributed to the growth of the private and social rented sectors which includes an increase in the number of properties being converted into HMOs. The development of the University centre in Shrewsbury will inevitably add to this housing trend and it is therefore anticipated that Shrewsbury in the first instance, is the area most likely to be potentially affected by a disproportionate increase in numbers of HMO's.

- 6.12 For communities in areas where HMO growth has or will occur, there are concerns about how this growth impacts on the nature of their communities (see 6.5). In order for the Council to be able to begin the process of managing this housing growth, a robust evidence base is required.
- 6.13 Currently, Shropshire Council does not have a comprehensive database of how many HMOs there are or where they are specifically located. Therefore work will be undertaken to develop a comprehensive evidence base to explore the quantity, distribution and impact of current HMOs in Shrewsbury.
- 6.14 Once that evidence is gathered and if issues of community imbalance or other issues identified, the principal methodology at the Councils disposal to exercise control over the conversion of a dwelling house to an HMO (3 – 6 unrelated residents), is to remove a home owners Permitted Development Rights (PDR's - see 6.2) through an Article 4 Direction (A4D). This is a measure used by around half of the University towns and cities nationally.
- 6.15 An Article 4 Direction (A4D) is declared within a defined boundary. It removes those permitted development rights (see 6.2) that allow a dwelling house to be converted into an HMO for 6 or less people. It does not prevent a conversion, but it means the conversion will need a planning permission. Planning fees cannot be charged for planning applications that arise as a consequence of an Article 4 direction being brought into effect.

### **Planning Considerations**

- 6.16 Local Plan policies seek a balanced housing stock and require development to contribute to the health and well-being of communities and safeguard residential and local amenity. Further to this formal Policy framework, this section provides guidance on whether a proposal which requires planning permission will help meet these policy objectives. Although this SPD constitutes guidance for consideration of applications against the existing Policy framework, it is recognised that the Local Plan review will provide the opportunity to set out explicit Local Plan policies to address these matters linked to a potential Article 4 Direction to limit PDR (See Appendix)
- 6.17 Proposals for the conversion of existing residential other buildings will be considered in the context of the general Development Management policies of the Local Plan, and whether proposals contribute to and respect amenity value in accordance with CS6 and MD2 through consideration of potential impacts such as those set out in 6.19–6.23.
- 6.18 In March 2015, as part of a wider housing standards review package, the Government issued a nationally described space standard. Local planning authorities can adopt this standard if it will address an evidenced need and the viability implications of introducing it have been adequately considered. Currently, there is no intention to formally adopt the national described space standard due to the impact it may have on development viability; however, proposals which voluntarily include the standard would be supported, provided other relevant criteria can be met. Local Plan Policies CS6 and MD2 provide the policy approach to such matters. Of particular consideration for HMOs are:

- 6.19 Layout - Proposals must demonstrate due consideration to the relationship with adjoining and neighbouring land uses, with particular reference to the proposed internal arrangements of the HMO development. In cases where adjoining uses are residential, proposed communal areas such as kitchens and living areas must not be positioned adjacent to existing bedrooms, to safeguard the amenities of neighbours.
- 6.20 Sound insulation - Where necessary, proposals must include details of noise mitigation measures, having regard to recognised standards, to be incorporated into the proposed HMO development, to protect the amenities of future occupants and neighbours.
- 6.21 Parking provision - Currently, there is no intention to either revise the Resident's Parking Scheme or adopt specific parking standards for residential developments. In the absence of adopted parking standards, proposals will be considered on a case by case basis, with reference to location, site specific circumstances and relevant policies and guidance.
- 6.22 Cycle parking - Where it is deemed necessary, proposals must make adequate provision for the covered secure parking of cycles.
- 6.23 Storage/collection of waste and recycling - Proposals must include appropriate details of how waste and recycling will be stored and presented for collection. Depending on the scale and nature of the HMO development, details of how refuse vehicles will access and egress a site to collect communal refuse bins may be required.

### **Planning enquiries and applications**

- 6.24 This guidance will be used to respond to planning enquiries, provide pre-application advice and determine planning applications for HMO developments, including:
- Change of use or new development applications for Sui-Generis HMOs.
  - Proposals to intensify or enlarge an existing HMO (where planning permission is required).

Where it is deemed necessary, proposals will be considered by members of the Planning Committee. Details of the council's Planning Committee procedures are available on the council's website at: [www.shropshire.gov.uk/planning](http://www.shropshire.gov.uk/planning).

### **Planning conditions**

- 6.25 The Planning Manager and members of the Planning Committee have the power to grant planning permission with conditions attached to restrict activities that would be detrimental to amenity. Attaching a restrictive condition is an approach that has been used successfully to remove permitted development rights relating to HMOs in the absence of an Article 4 direction. The condition has been tested through the appeal process in a case where the owner of a guest house applied to change the use of the building to a C3 dwelling house and the council attached a condition to the grant of planning permission removing the right for the dwelling to be changed to a C4 HMO under permitted development rights. The applicant appealed to the Planning

Inspectorate to remove the condition, but the Council's decision was upheld. The Planning Inspector considered that the restriction was both reasonable and necessary to protect the amenities of local residents with respect to late night noise in accordance with national policy which seeks to ensure a good standard of amenity is maintained and that sustainable, inclusive and mixed communities are encouraged.

### **Unilateral agreements**

6.26 In cases where planning permission is required for the development of HMOs, section 106 agreements may be used to prevent properties being occupied by students in the interests of maintaining a balance and mix of tenure types within that ward, which has previously been identified as having a large proportion of a certain type of property. The use of this approach has also been successfully tested through various appeals and is considered to be a robust approach to dealing with a specific, local issue where it is appropriate and reasonable to do so. It is considered that this approach remains a viable option for the council in the absence of an A4D.

### **Building regulations**

6.27 Building Regulations play a key part in managing the standard of health and safety of dwellings. Building Regulations define single dwellings and houses occupied by unrelated individuals, but living as a family as shared houses. Properties that fall within the planning category C4 may be classed as shared houses or houses in multiple occupation depending on the relationship and how the individuals use the property, on a shared basis or separately. Shared houses do not require building regulations approval in themselves' unless there are internal alterations such as additional En-suite facilities. HMOs require building regulations approval and are required to meet increased standards of smoke detection, fire safety and noise transference.

### **HMO licensing and Accreditation.**

6.28 Introduced by the Housing Act 2004, licensing is intended to provide greater protection for the health, safety and welfare of the occupants of HMOs and improve management standards. Mandatory licensing is designed to deal with the "high risk" HMOs (3 storeys or more in which at least 5 people live and share an amenity).

6.29 As part of the application process the authority must be satisfied that the proposed licence holder and manager is a "fit and proper person" and the Act provides the framework for this determination. Upon receipt of a complete application the council will undertake a verification visit to ensure satisfactory management arrangements and, where necessary, apply further conditions, which would be in addition to the mandatory and discretionary conditions attached to the license.

6.30 Accreditation schemes aim to improve a tenant's choice and raise standards of management and accommodation by requiring the landlord to meet specified standards in order to become a member. They are voluntary, open to all landlords and also provide the council with a record of good quality landlords and properties, allowing limited enforcement resources to then be directed at the substandard and dangerous properties.

## 7. Essential Rural Workers' Dwellings in Rural Areas and Conversion of Holiday Lets

### Introduction

- 7.1 National policy<sup>10</sup> specifies that new isolated dwellings in the countryside should be avoided unless there are exceptional circumstances. Any proposal outside the settlements identified in the Local Plan<sup>11</sup> is in the countryside and subject to restrictive policies. It is however recognised in national policy that agricultural, forestry and some other rural-based enterprises sometimes require one or more workers to live on or near the site. Such dwellings can be new build or involve the conversion and beneficial reuse of redundant or disused rural buildings. Proposals for rural workers dwellings within settlements identified in Schedule MD1.1 of the SAMDev Plan will be determined in accordance with the general policies that apply to all residential planning applications.
- 7.2 Inevitably farms and rural enterprises change over time and the need for buildings and any tied dwellings may cease. Applications for new dwellings and proposals for removal of restrictive occupancy and other conditions need careful assessment in order to prevent abuse of the planning system. The system of granting occupational dwellings and, when required, considering the removal of occupational conditions, must be fair and based on an accurate assessment of the role of the dwelling and the needs of the business or enterprise and need in the locality.
- 7.3 Detailed national criteria for the evaluation of rural worker dwelling applications, previously set out in Annexe A of PPS7, no longer exist. It is therefore necessary for local policy and guidance to set out the detailed framework for the consideration of such applications. SAMDev Plan Policy MD7a (Managing Housing Development in the Countryside) sets out policy provisions for this type of dwelling with the intention that this SPD provides 'necessary clarity for the consideration of applications' for new dwellings and for the removal of occupancy conditions. Policies MD7a and MD7b (General Management of Development in the Countryside) also set out criteria for the consideration of planning applications for the residential conversion of countryside buildings; replacement dwellings and the removal of occupancy conditions restricting permanent, full time residential use of holiday lets. This SPD therefore also provides additional guidance on these types of proposals.

### Types of Rural Workers' Dwellings

- 7.4 Local Policy, set out in SAMDev Plan policy MD7a (Managing Housing Development in the Countryside), has refined the approach to rural workers dwellings, identifying two different categories of dwellings. The policy

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<sup>10</sup> NPPF Paragraph 55

<sup>11</sup> See Policy MD1 SAMDev Plan

approach differentiates between a main new dwelling (*primary dwelling*) to serve a farm or other rural business, which has no existing accommodation<sup>12</sup>, and *additional dwellings* needed to provide for workers employed by the enterprise. Policy MD7a thus sets out a two tier approach which acknowledges a functional difference between the two dwelling types.

- 7.5 The primary dwelling is financially and functionally integral to the business, potentially serving as the main family home and providing for purposes ancillary to the business, such as office, meeting and kitchen/utility areas. The approach recognises that a rural business may be a single entity or comprise a number of different enterprises. In recognition of this and the differing roles of the primary and additional dwellings, policy MD7a sets out different requirements which must be satisfied for each type of dwelling.

### **Planning Application Requirements for rural workers dwellings (both primary and 'additional')**

- 7.6 A planning application for a primary dwelling is required to meet a rigorous financial test, as well as the functional test which is also required for additional dwellings. The additional requirement for a financial test reflects the greater flexibility in primary dwelling size and relaxation of the need for default to an affordable dwelling in the event that the business fails or the dwelling is no longer required by the business for some other reason. This flexibility is provided to reflect the primary dwelling's role as part of the business and potentially as a business asset.
- 7.7 Where the proposal is to provide an additional worker's dwelling within a rural business, which has an existing primary dwelling<sup>12</sup>, the applicant must show a functional need and meet the usual development management considerations regarding size, siting, access, design etc. The dwelling will be treated as a specialist type of affordable dwelling and be expected to default to a general affordable dwelling if it is no longer required as an essential rural workers dwelling. Therefore, the siting and design of the dwelling should be such that it would be attractive for independent full time occupation as an affordable dwelling by persons not directly involved in the rural business and there would be no potential conflict with business operations. To this end it is expected that these dwellings would not, for example, be located too closely to a working farmyard or in a position where they could not easily be separated from the business. They should also have adequate separate amenity space and not be located in overly isolated locations.
- 7.8 Applicants for all occupational dwellings will be required to demonstrate that a dwelling at the business is essential by showing a functional need for the occupier to be present at the business for the majority of the time ("time" being 24 hours a day, 7 days a week). Where the proposal is for an additional dwelling there will be an expectation that the functional need will extend to occupants of both the primary and the additional usually being available for the majority of 24 hours a day, 7 days a week. Policy MD7a also expects

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<sup>12</sup> Including any dwelling regardless of whether it has an existing occupational restriction.

applicants to show that all suitable alternatives to a new build dwelling have been considered and that: 'there are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural business.'

- 7.9 As part of the process of looking at potential housing solutions, particular consideration should be given to the re-use and conversion of any existing buildings on the site or vicinity (particularly where they are owned by the business) for residential purposes. It may be, given permitted development provisions introduced in April 2014 allowing (subject to certain conditions) the change of use of agricultural buildings to residential use without the need for planning permission, that the option of a building conversion may be the most expedient and sustainable approach.
- 7.10 Planning permission will not normally be given for a new dwelling where there is evidence that there were existing suitable dwellings or other buildings, which had potential for residential conversion, which have been sold by the business in the last 3 years.
- 7.11 In the case of a primary dwelling there will be an additional need for a proposal to demonstrate business viability and profitability is such that the proposed new dwelling can be adequately funded by the business alone<sup>13</sup>. The construction costs of the dwelling should therefore be proportionate to the current and/or future income generated by the business (see also paragraphs 7.17 to 7.19). Paragraph 3.59 of SAMDev Plan also requires that, 'the scale and type of dwelling is closely related to the evidenced needs of the business and is proportionate to the scale of the business'.
- 7.12 Where the site is appropriate, and the applicant is an essential rural worker with a strong local connection and a qualifying housing need who is unable to access market housing, they may choose to apply for a general single plot exception dwelling. In this case, functional need does not have to be shown and no occupational restrictions apply. However all the local connection and other criteria set out in Chapter 5 of this document do have to be demonstrated and the dwelling will be subject to more general restrictions which apply to ensure that a dwelling remains affordable housing in perpetuity.

### **Supporting information for planning applications for additional rural workers dwellings**

- 7.13 As these proposals relate to *additional* dwellings on established rural businesses, including agricultural, forestry and certain other land based businesses; the need for the dwelling will focus on the functional requirements of the business for an additional permanent full time presence at or near the enterprise in question. As well as evidencing what established need there is for a rural worker's dwelling, applicants must demonstrate that the need cannot be reasonably met in any other way.

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<sup>13</sup> Part 2b of Policy MD7a and paragraph 3.59 of SAMDev.



- 7.14 It would be expected that a full time worker should be needed within close vicinity 24 hours a day, throughout the year (rather than on a seasonal basis) to provide ongoing monitoring and emergency response. In the case of livestock enterprises, information should be provided on the nature and scale of production and the likelihood, threat and repercussions of emergencies (evidenced if appropriate by recent events). Applicants should also provide details of required: supervision; maintenance; feeding; ventilation/heating; and security/monitoring. Evidence should show how these activities are currently achieved (including frequency where appropriate) and what systems/technological solutions are in place to facilitate these requirements remotely and help avoid emergencies.
- 7.15 The case for emergency cover on site is related to the required response time, the back-up systems in place and the potential severity of impacts for the business, for example, in terms of livestock losses. However, an apparent need for full time on site supervision can often be addressed through other means. For example, the effects of power failure can be mitigated by a back - up generator, connection to a more reliable mains electricity source and/or the use of power failure alarm systems. Similarly, threat from predators and intruders needs to be assessed for likelihood. Many issues can be addressed by appropriate siting and design of buildings to provide: in built ventilation, distance from known predator habitat and overlooking and surveillance opportunities. Physical measures such as fencing, CCTV, alarms and security lighting would also be expected to be used rather than reliance on site supervision. The evidence submitted should set out what the existing 'staff' presence is on site and what investment in technological solutions has been made or considered to avoid the need for a new dwelling.
- 7.16 Where a need is demonstrated, the applicant(s) should specifically address why it cannot be met by any other accommodation available within reasonable distance<sup>14</sup> of the enterprise. Details should be provided of any other properties which have been considered in the locality and the reasons why they cannot meet the need.

### **Supporting Information for planning applications for primary rural workers dwellings**

- 7.17 In addition to demonstrating the functional requirements set out above, a financial test which considers the profitability and long term viability of the business is necessary. Information provided should include certified business accounts ( ideally covering a period of 5 years, but a minimum of 3 years) identifying sources of income and expenditure and net profit. Profit would be expected to take account of required investment in business materials (e.g. seed, fertilisers, foodstuffs, livestock investment) and all normally occurring payments, such as labour and transport costs, wages, rents and finance costs including loan repayments. Other overheads such as fuel costs, vets and other professional fees, and average maintenance and reinvestment in

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<sup>14</sup> Reasonable distance will depend on the nature of the business and required response times.

buildings, equipment and machinery in a normal year should also be accounted for.

7.18 Business soundness may be demonstrated by a properly prepared business plan. DEFRA advice<sup>15</sup> suggests that a financial forecast should be included in the business plan which shows what will happen financially when the plan is implemented considering: external funding; expected income; expected profits and losses and what can be offered as security against loans. There is also specific guidance on the use of figures to demonstrate farm viability. Whilst the advice relates to a farm business many of the principles would apply more generally to other rural businesses.

7.19 It should be noted that where a business is subject to any of the following it will be difficult to justify the case for a permanent dwelling:-

- depends on an insecure or short term tenancy;
- cannot demonstrate a viability of 3 years or more;
- has an insufficient or an unreliable income;
- Inadequate and/or weak business plan.

7.20 Where a functional need and sound initial business case is shown, the Council will support applications for temporary primary dwellings. A temporary dwelling may be a caravan or other low cost and easily removed/dismantled structure which requires minimal ground works. This can allow applicants to develop a rural business and demonstrate long term viability and need for a dwelling. At the end of the temporary period (normally 3 years) a reassessment of the functional need and business viability would be required, either to support a time extension for a temporary dwelling or an application for a permanent dwelling. In the latter case, business capacity to finance the dwelling proposed would need to be demonstrated, as well as viability.

### **Rural Occupancy Restrictions**

7.21 Both primary and additional rural workers dwellings which are allowed will be subject to a legal obligation to ensure that dwellings are only occupied by specified rural workers and, in the case of primary dwellings, that they remain available to serve the needs of the rural business. Additional occupational workers dwellings would be expected to meet the needs of the business as long as they exist but there is more flexibility to recognise changing business requirements. These dwellings can therefore be utilised to house other essential rural workers (complying with the terms of the restrictive conditions) to meet the needs of other specified rural businesses in the locality which have recognised functional requirements.

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<sup>15</sup> DEFRA has produced useful guidance under the heading 'Farm business and financial planning' (updated June 2013) available via the gov.uk website:[https:// www.gov.uk/guidance/farm-business-and-financial-planning](https://www.gov.uk/guidance/farm-business-and-financial-planning).

7.22 To reflect National and Local Plan Policies<sup>16</sup> which encourage responsiveness to local housing need, additional occupational dwellings granted planning permission will be treated as part of the pool of affordable housing to meet local needs. Therefore, if no longer required as a restricted rural workers dwelling they would be expected to become an affordable property for occupation by persons who meet the local eligibility criteria set out in paragraphs 4.26 and 5.19. To stop situations arising where existing unrestricted farm dwellings are sold-off on the open market when new occupational dwelling are built, in some situations, where there are also other dwellings associated with the farm / business unit, it may be appropriate to require a legal agreement which also ties these other dwellings to the unit and/or imposes occupancy conditions on them.

### **Size of Rural Workers Dwellings**

7.23 In locations where market housing is not normally permitted, rural workers dwellings are justified on the basis of their functional need and in the case of 'primary' dwelling, subject to a financial test. Should the need for the *additional* rural workers dwellings disappear they will default to become general rural affordable housing. It is recognised that rural worker dwelling development costs are likely to be lower than for a similar market housing build on allocated housing sites or other sites within defined settlements because the land may be already owned by the business or the land is purchased at agricultural rather than residential land value. It is not the intention that lower development costs should subsidise dwellings which are out of scale and disproportionate to the needs and size of the rural business and which may therefore have greater visual impact in a rural setting.

7.24 It is accepted, for example, that there may be a need for a farm office or wet room as part of the development, and this will be taken into account. As a starting point it is proposed that rural workers dwellings should aim for a maximum gross internal floorspace of 106 sq m, for consistency with the maximum size allowed for single plot exception sites. This 106 sq m floorspace allowance corresponds with that considered by the Homes and Communities Agency to be the size of property needed to meet the needs of 6 persons, and is larger than the national average for new dwellings which is 76 sqm<sup>17</sup>.

7.25 For *primary* rural workers dwellings an appropriately larger dwelling may be acceptable. It is recognised that these dwellings can often act as the family home whilst also accommodating ancillary business space such as offices and utility areas. A maximum gross internal floorspace of 150 sqm is proposed recognising the extra space requirements a *primary* dwelling is likely to require. The scale and type of dwelling proposed should be closely related to the evidenced needs of the business and proportionate to the scale

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<sup>16</sup>NPPF paragraph 54, Core Strategy Policies CS5 & CS11, SAMDev Policy MD7a.

<sup>17</sup> CABE (Commission for Architecture and the Built Environment) Survey 2009.

of the enterprise as set out within the financial test. As previously explained applications must demonstrate the proposed dwelling is solely funded through the business. Applicants will need to make the case for a larger amount of floorspace (above 106sq m) on a case by case basis. Similarly any outbuildings will need to be justified and permitted development rights for the dwelling will normally be taken away, as is the case for other exception site dwellings.

- 7.26 Given the importance of the Shropshire landscape, particularly in the designated Shropshire Hills Area of Outstanding Natural Beauty, dwellings will need to be built to a high design standard and incorporate appropriate materials and landscaping. They will be expected to make a positive contribution to their rural location in line with Core Strategy Policies CS5, CS6, CS17 and SAMDev Policies MD2. The scale and design considerations for single affordable dwellings set out in 4.17-4.20 also apply to rural workers dwellings.

### **Lifting of Existing Occupancy Restriction Conditions**

- 7.27 Applications will from time to time be made to remove occupancy conditions on a rural workers dwelling when an on-site worker is no longer needed. In all cases (including those where the planning permission predates the Core Strategy requirement to make an affordable housing contribution following removal of occupancy conditions) the applicant will be required to evidence that the condition is no longer appropriate. To do this the applicant will need to demonstrate that there is no functional need either from the original rural enterprise, or from other rural enterprises in the locality. To demonstrate the latter, applicants will be expected to appropriately market the property for let or sale at a price that reflects its occupancy condition for a period of at least 12 months; a lesser period may be considered in exceptional circumstances.
- 7.28 Where it is demonstrated that there is no longer a functional need for *primary* dwellings approved in accordance with MD7a or for those dwellings approved prior to the Core Strategy adoption 2011, an affordable housing contribution equivalent to the *whole* floorspace is required in accordance with Policies CS11 and MD7a and bullet point 3 of CS4<sup>18</sup>. For example, removal of an occupancy condition on a rural workers' dwelling of 200sqm would make a financial contribution to affordable housing of 200sqm x prevailing % target rate x £900/sqm cost of construction.
- 7.29 Where it is demonstrated that there is no longer a functional need for an *additional*<sup>19</sup> rural worker's dwelling, the default position is that it will become an affordable dwelling unless it is also demonstrated that it is *unsuitable* as an affordable dwelling. Applicants must provide a reasoned justification for unsuitability. Evidence of the lack of saleability and feedback regarding

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<sup>18</sup> NB. The third bullet point in Core Strategy Policy CS4 relates to the whole rural area, not just to development in Community Hubs and Clusters (see also Policy CS1).

<sup>19</sup> As defined by SAMDEV Policy MD7a.

unsuitability may provide support for the case but submitting that a property has not sold does not alone define unsuitability and the Council would expect to consider the individual circumstances in each case, including the extent and nature of marketing, both for sale and rent. Guidance on the marketing expectations is included in the appendix.

- 7.30 Where it is demonstrated to the Council's satisfaction that the dwelling is *no longer needed* as a rural workers dwelling, and is *unsuitable* as an affordable dwelling, the Council will require an affordable housing contribution payment equivalent to 50% of the uplift from affordable to market value (in accordance with the approach for single plot exception sites in paragraph 4.38).
- 7.31 The requirements for affordable housing contributions recognise that the removal of occupancy restrictions effectively create new open market dwellings. This approach is underpinned by the required sustainability benefits from housing in the countryside which are set out in Policy CS5 and Policy CS4 which require market housing development in the rural area to deliver community benefits through the provision of affordable housing and infrastructure. The approach also recognises that such dwellings often make no contribution to the Community Infrastructure Levy (CIL).

### **Use of holiday lets as dwellings**

- 7.32 Holiday let dwellings<sup>20</sup> are dwellings which are subject to planning conditions which restrict their occupation to holiday use only.
- 7.33 The acceptability of the principle of the use of holiday lets as unrestricted dwellings will be subject to the buildings being of permanent construction and suitable for full time occupation having regard to current building regulations and housing standards. Temporary holiday units such as caravans or chalets and similar structures would therefore not normally be acceptable as permanent dwellings.
- 7.34 In some cases the position or location of holiday lets may be an issue which would impact on their suitability for use as a primary residence. For example, some holiday lets may be sited within working farms (or other rural enterprises) and/or have restricted amenity/utility areas for personal household use or limited levels of privacy. Whilst this may be acceptable for a temporary period whilst on holiday, it may not be appropriate for a permanent dwelling and such issues would be material planning considerations.
- 7.35 A further matter which will need to be taken into account is the ability of the existing unit, its curtilage and access to provide self-contained living accommodation without additional alterations or extension. Where significant changes would be required facilitate permanent occupation the Local planning authority will need to take into account the impact of any additions or alterations.

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<sup>20</sup> Further definition is provided in the glossary in the Appendix.

- 7.36 In addition to the consideration as to whether buildings are suitable for conversion, applicants should demonstrate as part of the planning application that the loss of the existing holiday let use will not have a significant adverse impact on the visitor economy in accordance with SAMDev Policy MD11.
- 7.37 In the countryside, where it is considered (having regard to paragraphs 7.32-7.36) appropriate to remove conditions restricting use to holiday let, the approach established in Core Strategy Policy CS5 and detailed in SAMDev Policy MD7a will be applied. This requires that the dwelling is retained in perpetuity as an affordable dwelling<sup>21</sup> or that the use will preserve heritage assets (in accordance with the policy approach to open market conversions set out in CS5). In the latter case, where the use preserves a heritage asset, the payment of an affordable housing contribution in line with CS5, CS11 and MD7a will be expected. This will have regard to the current prevailing target rate, set annually using the Shropshire Viability Index and will be capped at 100 square metres.
- 7.38 When considering: whether a building has heritage worth; the preservation of that heritage value; the acceptability of the proposed removal of holiday let conditions; and, any proposed alterations or extensions, consideration will be given to policy criteria set out in MD13 and any further guidance set out in the Historic Environment SPD (and guidance set out for conversions in section 2).
- 7.39 Under Policies CS5 and MD7a, holiday lets that are not heritage assets may still be considered acceptable for use as permanently occupied dwellings (subject to suitability of the building and general design considerations) where they enter into a section 106 legal agreement to restrict their value in perpetuity as an affordable home. The definition of an affordable home will normally be the same as that of a single plot exception site. However any of the definitions of affordable housing given in the Appendix would be acceptable in principle.

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<sup>21</sup> The dwelling will be expected to remain affordable in perpetuity and will be secured by a legal agreement.

## 8. Gypsy and Traveller Sites

### Introduction

- 8.1 The relevant national planning policy relating to gypsy and traveller sites (including travelling showpeople) is set out in Planning Policy for Traveller Sites (PPTS). This needs to be read together with the National Planning Policy Framework (NPPF) and any planning guidance which is subsequently issued by the Government. A revised version of PPTS was published in August 2015. This has made a number of changes to national planning policy and most significantly has amended: the planning definition of gypsies and travellers and travelling showpeople to exclude persons who have permanently stopped travelling; increased the emphasis given to the protection of countryside; and strengthened the presumption against the approval of planning applications for site provision in the green belt.
- 8.2 It has been indicated by the Government that if a traveller (including a travelling showperson) has stopped travelling then applications for planning permission should be considered against national policy (NPPF) as they are for the settled community rather than on the basis of the PPTS (subject to Article 8 European Convention on Human Rights provisions and the interest of the child)<sup>22</sup>. No definition has been provided in the PPTS of what constitutes active travelling or temporary stoppage and how the definition will be applied to family groups. It is expected that this will be made clearer through subsequent appeal and legal decisions which will inform decision making on planning applications by this local planning authority.
- 8.3 As part of the changes introduced by Government, the guidance 'Designing Gypsy Sites – Good Practice Guide (2008)' and Guide to effective use of enforcement powers-Parts 1 & 2 (2007) which concerned unauthorised encampments and unauthorised development of caravan sites have been cancelled and no longer apply.

### General considerations –Planning policy and the Equality and Human Rights Acts

- 8.4 The Equality Act, which came into force on 1 October 2010, provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. The Act clarified and strengthened previous legislation to provide a new discrimination law intended to protect individuals from unfair treatment and promote a fairer society. Romany Gypsies and Irish Travellers have a recognisable culture, protected by law and are identified as having a safeguarded characteristic under the Equality Act 2010. Shropshire Council also has a duty under the Human Rights Act 1998 (HRA) not to act

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<sup>22</sup> Paragraph 3.7 DCLG Planning and Travellers; proposed changes to planning policy and guidance- consultation response August 2015.

incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms. Article 8 of the HRA relating to Right to respect for private and family life is particularly relevant<sup>23</sup>. In implementing planning policy there is therefore a need to ensure that there is no conflict with these other legislative requirements

8.5 The legal situation, together with provisions in paragraph 24 of PPTS<sup>24</sup>, mean that the personal circumstances of the applicant, lack of alternative accommodation and identified need for Gypsy and Traveller sites are taken into account in determining planning applications. The PPTS specifically states that local planning authorities should consider applications from all travellers, not just those with local connections, and that adopted local policy and existing local provision are also issues which should be taken into account.

8.6 Additionally national policy (PPTS) requires that sites are economically, socially and environmentally sustainable and highlights the following as relevant matters when considering proposals:

- Whether effective use is made of previously used/derelict/untidy land;
- Whether a scheme makes a contribution to enhancement of the environment and increase of openness;
- Promotion of healthy lifestyles ( e.g. recreational opportunities) ;
- Where landscaping is required, that it is appropriate and attractive and in particular hard landscaping does not give the appearance of creating an isolationist barrier;
- The appropriateness of the scale of any rural site relative to nearest settled community and capacity of local infrastructure;
- Need to avoid areas of high flood risk;
- Whether planning conditions or obligations can be used to mitigate impacts and overcome planning concerns;
- Need to protect green belt from inappropriate development;
- Any heritage or natural environment designations.

This list is not exhaustive in detailing planning considerations as the more general development management matters including those relating to highway and access suitability, amenity and neighbour impacts and design and layout considerations are also relevant. Similarly more general national policy in the National Planning Policy Framework (NPPF) also applies to traveller site proposals.

8.7 Permissions for additional pitches may support social sustainability by making provision for growth within family units and maintenance of family support networks. Settled sites can improve health and social outcomes by provision

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<sup>23</sup> Article 8 Human Rights Act included in Appendix.

<sup>24</sup> Paragraph 24 of PPTS included in Appendix.



of specific site infrastructure, such as safe play areas, utility buildings, drainage and utility connections and by facilitating access to health, educational, recreational, social and other public services. There is also an opportunity to reduce potential environmental damage through unauthorised encampment. Additionally permanent accommodation can improve access to employment opportunities.

8.8 Guidance on local policy requirements is provided in the table below.

### **Sites to meet identified and other accommodation needs**

8.9 Core Strategy Policy CS12 seeks to address the needs of Gypsies and Travellers by providing for; the allocation of sites in the Local Plan to meet identified needs and the support of other suitable proposals. Sites should be located close to Shrewsbury, the market towns and key centres, and community hubs and community clusters. This is in accordance with paragraph 25 of PPTS which states that, 'local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements.....' Applications for sites that are not close to these settlements can be considered as exception sites if they are under 5 pitches in size, accord with Core Strategy Policy CS5 and the applicants meet local connection criteria. Requirements for exception sites are discussed in further detail in paragraphs 8.28-8.32.

8.10 PPTS requires that local planning authorities produce evidence to establish traveller accommodation requirements and that they should set pitch provision targets which meet the likely needs of gypsies and travellers in their area. The current planning definitions of travellers and travelling showpeople are set out in Annexe 1: Glossary to PPTS and are included in the Appendix to this document.

8.11 An assessment of the need for gypsy and traveller sites Gypsy and Traveller Accommodation Assessment (GTAA) has been carried out as a part of the process of preparing the Local Plan (SAMDev DPD) by specialist consultants. This research concluded that there was no identified need for general sites taking into account expected pitch turnover. The methodology and conclusions in the GTAA (2015) have been validated by the Plan Inspector who noted in her report that, 'the Council will still be in a position to comfortably demonstrate a five year supply of pitches and sufficient supply for the remainder of the plan period (to 2026), having regard to expected turnover.....' On the basis of this and GTAA evidence, it is considered that there is no specific identified 'general' pitch need.

8.12 There is however currently one temporary travelling showpersons yard in Shropshire accommodating 5 households for which permanent provision must be made. There is also a need to make transit site provision. Further detail regarding these requirements is included in the GTAA (2015) which is published on the Council's website.

<http://shropshire.gov.uk/media/1373193/Shropshire-GTAA-2014-Revised-4-Feb-2015.pdf>

- 8.13 It is recognised that changes to the planning definition of gypsy and travellers by the Government may reduce the number of people who fall within the definition. There is currently no available evidence and the impact of this definition change will therefore be considered in future need assessments. A commitment has been made to review the GTAA within 5 years.
- 8.14 It is recognised that changes to the planning definition of gypsy and travellers by the Government may reduce the number of people who fall within the definition. There is currently no available evidence and the impact of this definition change will therefore be considered in future need assessments. A commitment has been made to review the GTAA within 5 years.
- 8.15 Where planning applications for new sites do come forward, for example from applicants wishing to make their own site provision, they will be considered in line with Core Strategy Policy CS12 (in conjunction with supporting Core Strategy and SAMDev Policies and PPTS provisions) until a revised policy is adopted through local plan review.
- 8.16 The baseline need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment (2015), or any later study updating that evidence, with provision since that date identified through monitoring of planning permissions. This is reported annually in the Authority's Monitoring Report available at [www.shropshire.gov.uk/planning.nsf](http://www.shropshire.gov.uk/planning.nsf).
- 8.17 As there are no specific identified pitch needs, it would be expected that proposals for pitches should be:
- sited close to Shrewsbury, the Market Towns and Key Centres, and Community Hubs and Community Clusters;
  - be a suitable development proposals for small exception sites (under 5 pitches) in accordance with Policy CS5, where a local connection (complying with paragraph 15 of the PPTS) is demonstrated;
- 8.18 In addition to considering the suitability of a site, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller (in accordance with the current definitions and guidance in PPTS) and the availability of alternative suitable sites.
- 8.19 Where the proposal is for an exception site the Council will also seek to establish whether the applicant(s) have the required links to the area as discussed in paragraphs 8.28-8.32. Further guidance on local policy criteria is also provided in the table below.
- 8.20 Occupancy conditions will be used<sup>25</sup> to limit occupancy to bona fide Gypsies and Travellers who meet the current definitions and guidance in PPTS. In all cases, genuine Gypsy or Traveller status must be demonstrated. Evidence that the intended occupiers of a site fall within the legal definition of a Gypsy or Traveller must be provided (e.g. documentary evidence, oral evidence,

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<sup>25</sup> For example, using the Planning Inspectorate's model conditions for gypsy and traveller sites.

photographic evidence, supporting statements from known members of the community).

**Table Showing Local Policy Criteria**

<b>Policy criteria</b>	<b>Guidance</b>
<p><b>CS5 (Countryside and Green Belt)</b>                      “..affordable housing / accommodation to meet a local need in accordance with national planning policies and Policies CS11 and CS12”</p>	<p>The Policy states that “applicants will be required to demonstrate the need and benefit for the development proposed. Development will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate.”</p> <p>There are additional restrictions on, and control of, development in the Green Belt in line with government guidance (in NPPF &amp; PPTS). Proposals for sites (which have not been allocated in the Local Plan) in the Green Belt are inappropriate development.</p>
<p><b>CS12 ( Gypsy and Traveller Provision)</b>                      “Reasonably accessible to services and facilities”</p>	<p>Gypsies and Travellers experience poor social outcomes and discrimination. A permanent site brings benefits by providing a settled base to access schools, health care, safe play areas and other facilities.</p> <p>Although the ideal may be that Gypsy and caravan sites are located amongst other residential areas of our towns and villages, in practice there remain some tensions between the settled community and travellers and it has proven extremely difficult to obtain such sites. This difficulty needs to be balanced with the PPTS ( paragraph 25) requirement that ‘Local Planning Authorities should <i>very</i> strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan’.</p> <p>Consequently new traveller sites will be limited in open countryside locations and siting close to settlements (reasonably accessible to facilities and services) encouraged. It is however recognised that sites may have to be located further outside settlements than other residential developments in the interests of promoting a peaceful and integrated co-existence between the site and the local community (PPTS paragraph 13).</p>
<p><b>CS12 ( Gypsy and Traveller Provision)</b>                      “incorporate suitable design and screening”</p>	<p>Landscaping and planting with appropriate trees and shrubs can help sites blend into their surroundings, give structure and privacy, and maintain visual amenity. Enclosing a site with too much hard landscaping, high walls or fences can give the impression of deliberately isolating the site and its occupants from the rest of the community, as well as being alien to the character of rural areas, and should be avoided.</p>

Policy criteria	Guidance
<p><b>CS12 ( Gypsy and Traveller Provision)</b>                      “have suitable access and areas for manoeuvring caravans and parking for all essential uses”</p>	<p>Vehicular access to and from the public highway must be safe, with suitable sightlines. On-site roads should be adequate for residents and visitors. There must be sufficient capacity for touring caravans and any visiting caravans. Planning conditions may be used to control the number of visiting caravans to a number that can be reasonably accommodated on the site.</p>
<p><b>CS12 ( Gypsies and Traveller Provision)</b>                      “make provision for essential business uses...as appropriate”</p>	<p>Where business use is likely to be involved, the site must be suitable for the type and scale of business, taking account of neighbouring uses, access and parking and environmental considerations.                      National policy in PPTS however requires that mixed business and residential use on rural exception sites are not permitted.</p>
<p><b>CS12 ( Gypsies and Traveller Provision)</b>                      “make provision for....recreational facilities as appropriate”</p>	<p>MD2 sets standards for open space (see commentary below) .</p>
<p><b>CS6 (Sustainable Design &amp; Development Principles )</b>  <b>MD2 ( Sustainable Design)</b></p>	<p>Core Strategy Policy CS6 and SAMDev Policy MD2 are more designed for bricks-and-mortar buildings, and therefore some flexibility is necessary in applying it to Gypsy and Traveller sites. Nevertheless, the objectives of good location, siting and design – including sensitivity to the setting, reducing reliance on the car, seeking resource efficient construction and energy efficiency to ensure warm accommodation, among other factors – still apply.                      MD2 also sets out specific requirements regarding the incorporation of Sustainable Drainage techniques; landscaping and open space and environmental and heritage protection.                      The site must have adequate space to protect the amenity of residents and their neighbours, taking into account potentially free ranging animals and any use of the site for business or storage uses.</p>
<p><b>CS6 (Sustainable Design &amp; Development Principles )</b>  <b>MD2 ( Sustainable Design)</b></p>	<p>Where more than two residential caravans are proposed and there are legitimate concerns about residential and local amenity, a planning condition may be used to require that a site management plan is agreed with the Council's Gypsy and Traveller Liaison Officer.                      Similarly consideration will be given to conditions which control impacts such as limiting the number of caravans on site and the extent of business operations.</p>
<p><b>CS17 (Environmental Networks)</b>  <b>MD12 (The Natural</b></p>	<p>In areas with nationally recognised designations (including among others the Shropshire Hills Area of Outstanding Natural Beauty (AONB), Sites of Special Scientific Interest, National</p>

Policy criteria	Guidance
<p><b>Environment)</b>  <b>MD13 (The Historic Environment)</b></p>	<p>Nature Reserves, RAMSAR sites, Conservation Areas, Registered Historic Battlefields and Registered Parks and Gardens) planning permission will only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development.</p> <p>Proposals must also meet the wider requirements of these policies in relation to local designations and the broader heritage and natural environment asset. Specific guidance is provided in the Natural Environment and Historic Environment SPDs.</p>

### Unauthorised Occupation of Land

8.21 Where development has happened without obtaining the necessary planning permission this is unauthorised development. Intentional unauthorised development is identified as a specific issue (material consideration) taken into account in the making of decisions on all planning applications and appeals<sup>26</sup>. On this basis intentional occupation of land without planning permission can be a factor to be weighed in the consideration of retrospective planning applications. The consultation on changes to the PPTS<sup>27</sup> states:

‘.... this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application’.

### Green Belt and other Sensitive Areas

8.22 The Green Belt is a planning designation in which there is a general presumption against inappropriate development. The part of Shropshire lying to the East of the River Severn and South of the A5 is included in the West Midlands Green Belt. In accordance with section 9 of the NPPF, Gypsy and Traveller sites are considered inappropriate development in the Green Belt.

8.23 Inappropriate development is only permitted in “very special circumstances” where the applicant can demonstrate that there are other considerations which mean that the harm caused to the Green Belt by allowing the development are exceeded. Paragraph 16, PPTS ( August 2015) clarifies that, ‘subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances..’ Paragraph: 028 of National Planning Practice Guidance provides some detail on the consideration of children’s best interests.

<sup>26</sup> Government Planning Policy Statement 31<sup>st</sup> August 2015.

<sup>27</sup> HM Government, Consultation: Planning and Travellers, 14 September 2014 section 4.10.

- 8.24 Whilst national policy (paragraphs 14 & 49 NPPF) allow sustainable residential development when there is no 5 year supply of deliverable sites, the grant of planning permission is restricted by policies relating to sites in protected areas<sup>28</sup>.
- 8.25 The PPTS (paragraph 27) also specifies that, the inability of a local planning authority to demonstrate a 5 year supply of sites is not a significant relevant issue (material consideration) for the grant of temporary planning permission in designated areas including: Green Belt; sites protected under the Birds and Habitats Directives; Sites of Special Scientific Interest (SSSIs); Local Green Space; an Area of Outstanding Natural Beauty (AONB) or National Park.
- 8.26 This change to national traveller policy means that although the absence of a 5 year site supply remains a material consideration, the weight given to it is a matter for the decision taker<sup>29</sup> (normally the Local Planning authority or appeal inspector).
- 8.27 Given the particular vulnerability of caravans, new pitches and sites should not be located in areas of high risk of flooding.

### **Exception sites**

- 8.28 Gypsy and Traveller sites that are not close to settlements in which development is allowed (second bullet point of Policy CS12) will be subject to the normal restrictions that apply to development in the open countryside (Policy CS5). In the countryside, residential development is tightly controlled. Exceptions can be made for affordable housing / accommodation (including Gypsy and Traveller sites) to meet a local need in accordance with national planning policies (Policy CS5).
- 8.29 In addition to the standard requirement to demonstrate genuine Gypsy or Traveller status, in the case of an exception site there is also a requirement to demonstrate that the applicants are current residents or have an existing family or employment connection. As part of normal consultation procedures for exception sites, the Parish or Town Council will be asked for their views on both the planning application *and* the applicant's local connection.
- 8.30 For the purposes of applying Core Strategy Policy CS12 and complying with national planning policy provisions in PPTS, "local connection" is defined as meeting 1 of the following criteria:
- The applicants normally reside in the local area<sup>30</sup> and have done so for at least 3 years<sup>31</sup>;

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<sup>28</sup> Protected areas identified in Footnote 9 of the NPPF are : Birds & Habitats Directives sites, Sites of Special Scientific Interest, Green Belt, Local Green Space, Area of Outstanding Natural Beauty, Heritage Coast, National Park (or Broad's), designated heritage assets and locations at risk of flooding or coastal erosion.

<sup>29</sup> Section 3.22 Planning and travellers: proposed changes to planning policy and guidance Consultation Response DCLG August 2015.

<sup>30</sup> "Local area" has the same definition as in paragraph 4.30 of the SPD, namely the parish.

- The applicants have family who are normally resident (and have been for at least 15 years) in the local area<sup>31</sup>;
- The local area is their work base and/or Shropshire Council area is their main place of work<sup>31</sup>.

8.31 Planning applications for a rural exception site must be accompanied by a supporting statement that provides evidence of the applicant's or their family's local connection (e.g. birth certificate; school records; rent/license agreements; utility bills; work contracts; oral evidence; photographic evidence; supporting statements from known members of the community). Early discussion with the Council's planning officers is strongly encouraged

8.32 As with other types of accommodation, as circumstances change Gypsy and Traveller sites may be sold or passed on. To prevent any abuse of the system, where planning permission is granted for pitches in rural locations as an exception to normal policy, the permission will be subject to planning conditions<sup>32</sup> and/or section 106 legal agreements. These will, limit initial and future occupancy to persons who are bona fide Gypsies and Travellers and who meet the local connection criteria .

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<sup>31</sup>In the case of applications for retrospective planning permission, these criteria relate to the situation at the time of commencement of the development.

<sup>32</sup>For example, using the Planning Inspectorate's model conditions for gypsy and traveller sites.

## **9. Extra care and its use class (C2/C3)**

- 9.1 The term 'extra care accommodation' can be applied to a range of accommodation types intended to meet the needs of the infirm (primarily but not necessarily the elderly). These include 'assisted living', 'extra' or 'very sheltered housing', 'close care', 'continuing care retirement communities' and 'retirement villages'. It will normally be assumed that these developments will fall within Use Class C3 (Dwelling Houses) rather than Use Class C2 (Residential Institutions).
- 9.2 Typically contracts can be purchased that allow the household to buy in escalating levels of domestic and personal care to suit the occupier(s) changing needs.
- 9.3 There are different definitions of extra care accommodation used for different purposes, e.g. the definition to determine the allocation of the New Homes Bonus (NHB) differs to the definition to determine whether there has been a material change in the use of land and buildings. The different definitions can help to inform the assessment of an individual case, but should not therefore determine the outcome.
- 9.4 The definition for the purposes of determining an award under the NHB is the same for determining whether it would be subject to council tax. This hinges on whether it is a self-contained unit of accommodation.
- 9.5 The same approach is taken to determining whether a new built unit should be included in more general housing numbers (for net supply and house building purposes). However, in borderline cases it is more likely the tax system (and therefore the 'qualification' for the New Homes Bonus) will conclude that a unit is self-contained and is therefore a dwelling.
- 9.6 The DCLG definition of self-containment for the purposes of determining whether a unit should be included in more general housing numbers is where all the rooms (including kitchen, bathroom and toilet) in a household's accommodation are behind a single door which only that household can use.
- 9.7 The use class C2/C3 does not in itself determine whether extra care accommodation should be included in more general housing figures or for council tax / NHB purposes. In Development Management, there are broadly two areas of interest: whether a development should contribute to the provision of affordable housing, and; determining whether a material change in use has occurred that requires planning permission.
- 9.8 In assessing if a unit 'counts' for the purpose of determining if a development should contribute to the provision of affordable housing, the assessment should not be led by an understanding of the factors that are used to inform an assessment of whether there has been a material change in use, instead, it is more appropriate to consider the factors that help determine whether a unit should be included in more general housing numbers.
- 9.9 If the unit qualifies to be counted as part of the more general housing numbers then it should also 'count' towards the number of homes to be used to calculate the required level of affordable housing, and indeed is itself capable of being a unit of affordable housing. That should be the starting point and will usually be the final word on the matter, unless there is sufficient information available on the details of the



proposal that would justify a different approach. This is where the consideration of factors relating to the definition of use class can have a role.

- 9.10 The Use Classes Order sets out different categories of residential use and makes a distinction between residential institutions (C2) and dwelling houses (C3). There is considerable case law (planning appeals and in the courts) on the definitions of both. There is no government guidance on which use class 'extra care housing' falls into. It is for the decision maker to decide, depending on the individual circumstances of each case.
- 9.11 In deciding which is the appropriate use class, much depends on the extent to which the accommodation is self-contained. ODPM Circular 03/2005 (Changes of Use of Buildings and Land, The Town & Country Planning (Use Classes) Order 1987 (as amended) at paragraph 73 says that sheltered housing developments will usually fall within the C3 class. Beyond that, the decision maker should draw on appeal decisions and some legal cases, though the picture is unclear, if not contradictory.
- 9.12 At the time a planning application is to be determined the detailed proposals for the extra care accommodation can be examined to assess whether the initial use is more likely to be C2 or C3. What happens later once the unit is built and occupied, perhaps for some time, cannot be ascertained at the application stage. However, it should be noted that in a case in West Oxfordshire (also DCP) where the use fell between sheltered housing and a care home, the High Court found that the use was sui generis.
- 9.13 Notwithstanding this, unless the details clearly indicate to the contrary, extra care units that appear to be self-contained units of accommodation should be treated as such and as falling with class C3. As a result, it will be a matter for development management officers to negotiate and determine with the relevant applicants and will be hugely dependent on the individual schemes proposed. It is important to note that we expect CCRCs to include a varying degree of accommodation much of which we will expect be extra care that accommodates an affordable element. This is supported by OCC. The council will be looking for the majority of units to be C3.