

# Kirklees Interim Affordable Housing Policy – January 2020

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## 1. Introduction

- 1.1. This document provides guidance on the implementation of the Kirklees Local Plan Housing Mix Policy (LP11) in terms of providing affordable housing in new housing developments in the district. It replaces the initial interim update to SPD2 (Affordable Housing) which was adopted in 2008 and seeks to provide short-term clarity in relation to the evidence base and implementation of the LP11. The council are proposing a formal update to the Affordable Housing Supplementary Planning Document later in 2020.
- 1.2. An Interim Affordable Housing Policy was approved in 2016 to be used prior to the adoption of the Local Plan. This 2020 revision to the Interim Affordable Housing Policy (*The Interim Policy*) supersedes that document and provides guidance on how current identified affordable housing needs should be secured in accordance with Local Plan Policy LP11 and reflects policy related to affordable housing set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). This Interim Policy will be used as a material planning consideration when securing affordable housing as part of the determination of planning applications. It takes account of national changes to the definition of affordable housing, including the introduction of Starter Homes, as set out in Annex 2 of the NPPF. The policy also sets out preferences for early delivery and a process to consider viability issues on planning applications.

## 2. Definition of Affordable Housing

- 2.1. Annex 2 of NPPF includes a definition of Affordable Housing based on the 2016 Housing and Planning Act. Annex 2 of NPPF sets out the definition of Affordable Homes:

*Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:*

- (a) *Affordable housing for rent*
- (b) *Starter homes*
- (c) *Discounted market sales housing*
- (d) *Other affordable routes to home ownership*

- 2.2. Affordable Housing for Rent requires rent to be set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); the landlord is a registered provider, except where it is included as part of a Build to Rent scheme; and it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for

rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

- 2.3. The Starter Homes definition refers to Sections 2 and 3 of the 2016 Housing and Planning Act (henceforth referred to as the Act). This defines starter homes as new dwellings, to be available for purchase for qualifying first-time buyers only, sold at or at least 20% below the market value and less than the price-cap. A qualifying first time buyer is an individual who is aged at least 23 years old but has not reached the age of 40 and the price-cap is £250,000 outside of Greater London. The explanatory note to the Act expresses the purpose of the Chapter in the Act on Starter Homes is to promote their delivery; and that there is a duty to promote the supply of Starter Homes when planning functions are carried out, and a specific duty in relation to decisions on planning applications. The NPPF specifically recognises Starter Homes as an affordable housing product. However, the required secondary legislation to govern precisely how Starter Homes should be controlled in terms of maintaining their status and terms of tenure is still awaited. Upon a developer request and to allow Starter Homes to be secured in Kirklees, the Council has taken the initiative to allow new homes which meet the Starter Homes definition to be secured currently on the basis of an agreement between the developer and Local Planning Authority as part of a Section 106 agreement. Until secondary legislation is introduced, where Starter Homes are defined in any agreement by reference to the terms of Section 2 of the Act, those criteria apply in full; where age restrictions are not required, then Discounted Market Sales housing is available.
- 2.4. Discounted Market Sales housing is housing sold with a discount of at least 20% below local market value; with eligibility determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.
- 2.5. Other affordable routes to home ownership includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to government or the relevant authority specified in the funding agreement.

### **3. Kirklees Interim Affordable Housing Policy**

- 3.1. The delivery of affordable housing is a key priority both nationally and locally. Local Plan Policy LP11, assisted by this interim policy seeks to improve the delivery of affordable housing across the district as part of the Council's broader approach to improve housing delivery in Kirklees.

- 3.2. Supplementary Planning Document 2 – Affordable Housing ('SPD2') was adopted in November 2008. Since then there has been a transformation within the housing market, both nationally and locally. This change has, in part, been influenced by the economic factors. Nationally there have been significant changes to planning policy and guidance with the issuing of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG). More recently the definition of affordable housing has changed further as set out in the revised NPPF. This includes a shift in focus to include home ownership options and the provision of Starter Homes as detailed in the Housing and Planning Act (2016). Locally, in February 2019 the Kirklees Local Plan was adopted as the development plan for Kirklees.
- 3.3. The requirements as set out in SPD2 were 15% of floorspace on brownfield sites, and 30% of floorspace on greenfield sites on developments of 5 or more. The site size threshold is no longer appropriate as paragraph 63 of NPPF now only seeks affordable housing contributions on major developments. Local Plan Policy LP11 seeks affordable housing on sites of more than 10 dwellings. In relation to the proportion of affordable housing, a district-wide assessment of the economic viability<sup>1</sup> of land for housing has shown that, for market housing schemes in Kirklees, 20% of the total units on sites should be provided as affordable housing. Negotiation will take place on individual planning applications if viability information is provided to show that the level of affordable homes required cannot be delivered. This Interim Policy also reflects that the Local Plan Policy LP11 requirement is based on the number of units rather than floorspace as was set out in SPD2.

#### **4. Evidence of need**

- 4.1. A robust evidence base for devising a deliverable affordable housing policy is required, and this needs to be set within the national policy context and the need for that housing economic viability of any affordable housing requirement. The economic viability of meeting affordable housing needs was considered in the preparation of the Local Plan. A district-wide assessment of the economic viability of land for housing has shown that, for market housing schemes in Kirklees, 20% of the total units on sites should be provided as affordable housing

#### **5. Need**

- 5.1. The NPPF highlights the importance of meeting the need for new homes. It also places importance on widening the choice of high quality homes, the delivery of both market and affordable homes, and widening the opportunities for home ownership. Paragraph 62 of NPPF states that provision should be met on site unless off site provision or an appropriate financial contribution in lieu is robustly justified, and the agreed approach contributes to the objective of creating mixed and balanced communities.

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<sup>1</sup> [Local Plan CIL Viability Addendum](#)

- 5.2. The Kirklees Strategic Housing Market Assessment (SHMA) (October 2016)<sup>2</sup> was prepared to support the production of Kirklees Local Plan and to identify housing needs in the district in accordance with national planning policy and guidance. The SHMA evidences a net imbalance of affordable housing in the district of 1,049 per annum over the following five years. This figure is an expression of the overall annual shortfall in affordable housing needs and should not be taken as a district target. It does, however, justify the need for new developments to provide affordable housing of a type which addresses the identified need.
- 5.3. The SHMA sets out the current required tenure split in Kirklees as 55% affordable rent, and 45% intermediate tenure. In terms of Annex 2 of NPPF, Starter homes, discounted market sales housing and other affordable routes to home ownership are intermediate housing.
- 5.4. Annex 2 of NPPF includes home ownership products as part of the definition of Affordable Housing and paragraph 64 expects at least 10% of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:
- a) provides solely for Build to Rent homes;
  - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
  - c) is proposed to be developed by people who wish to build or commission their own homes; or
  - d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.
- 5.5. The SHMA also provides evidence on household incomes and house prices across the district which is considered appropriate to note when considering levels of affordability for households. The SHMA shows that median house prices in Kirklees are around £125,000 with median income at around £25,000 per annum, with lower quartile prices at £93,000 and lower quartile incomes at £18,500 per annum. Both of these represent a ratio of income to house price of 5 times.

## **6. Broader policy context**

- 6.1. Kirklees's Housing Strategy for 2018 – 2023<sup>3</sup> sets out the national, regional and local housing context, and the issues that the Council and its partners will address. The Strategy supports and complements the Local Plan, and it

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<sup>2</sup> [Strategic Housing Market Assessment \(2016\)](#)

<sup>3</sup> <https://www.kirklees.gov.uk/beta/housing/pdf/kirklees-housing-strategy.pdf>

references the SHMA evidence base in identifying housing need. The Kirklees Housing Strategy is also a contributor to the ambitions and outcomes set out in the Joint Health and Wellbeing Strategy and the Economic Strategy.

- 6.2. The Kirklees Housing Strategy underlines how good, secure and affordable housing in attractive and inclusive communities, underpin the overarching partnership outcomes for Kirklees, and the people who live and work here.
- 6.3. The three priorities for housing in Kirklees are:
  - **Need:** Meeting the housing need of vulnerable people
  - **Quality:** Improving housing quality and making the best use of existing housing
  - **Growth:** enabling housing growth and long term supply of market and affordable housing
- 6.4. The development industry and the planning process are key contributors to supporting the strategy outcomes.

## 7. Delivering against policy requirements

- 7.1. In implementing local policy responses, the council recognise that there are often different circumstances on sites and are therefore willing to work with site promoters to seek solutions to enable the affordable housing needs to be met. Housing provision should seek to meet the needs identified in the locality or sub-market area where the development is located, as set out in table 7.11 of SHMA and shown later in this document.
- 7.2. The Local Plan Strategy and Policies document (paragraph 8.38)<sup>4</sup> states that on housing sites, where smaller parcels of land are developed incrementally, these will be expected to make a contribution to the provision of affordable housing for the entire allocation.
- 7.3. The type of housing required in the different sub-market areas is set out in the SHMA and within this document. Any proposal where affordable housing is required should seek to meet affordable housing needs that are identified in that sub-area.

## 8. Viability

- 8.1. The ability of development within the district to be economically viable is a key consideration when setting an affordable threshold. Paragraph 34 of the NPPF highlights the importance of viability in setting policy standards and paragraph 57 of NPPF states that where up-to-date policies have set out the contributions expected from them, planning applications that comply with them should be assumed to be viable.

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<sup>4</sup> <https://www.kirklees.gov.uk/beta/planning-policy/pdf/local-plan-strategy-and-policies.pdf>

- 8.2. A viability study for the whole of the district entitled the Kirklees Local Plan Infrastructure and Viability Study 2015 ('KVS') was commissioned as part of preparation of the Local Plan and Community Infrastructure Levy; with an addendum published in 2016. The KVS and addendum informed policies in the Local Plan including the level of affordable housing provision and the preliminary rates for the Community Infrastructure Levy (CIL). The viability study carried out a district wide assessment considering issues such as land prices, build costs, sales values, abnormal and professional fees, finance, S106 contributions and developer profit levels.
- 8.3. The KVS concluded that an affordable housing rate of 20% was appropriate as a district-wide target, unless demonstrated to be economically unviable for specific applications.

## **9. Vacant Building Credit**

- 9.1. Vacant building credit is national policy set out in the NPPG and provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of the vacant buildings when the local planning authority calculates any affordable housing contribution. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.
- 9.2. Affordable housing contributions may be required for any increase in floorspace.
- 9.3. The Local Planning Authority (LPA) will determine on a case by case basis whether a building is vacant or abandoned. As a general principal to qualify for the vacant building credit a building should be vacant at the time a planning application is registered. The LPA will consider case law where a dispute arises about whether a building is abandoned rather than vacant. The credit is only applicable to relevant vacant buildings. The LPA will not accept, for example, sheds and non-permanent buildings as being relevant for the purposes of calculating a vacant building credit.
- 9.4. Further information on vacant building credit is set out in the NPPG.

## **10. Outline Planning Applications**

- 10.1. On outline applications where the number of units is not known, the Council will require the applicant to submit an indicative layout to demonstrate the number of dwellings which will be proposed.

## **11. Student Accommodation**

- 11.1. Affordable housing contributions are not sought on schemes for student accommodation. This may be restricted through the imposition of planning conditions. In the longer term, where market demands change, it is possible that site owners may wish to remodel and provide this accommodation as market housing outside the student sector. In such circumstances where units are being re-provided for market sectors other than student housing, the Council will apply this Interim Affordable Housing Policy to the dwellings brought forward.

## **12. Off Site Provision**

- 12.1. The policy assumes on site provision. However, exceptionally, where the LPA considers it appropriate, a financial contribution to be paid in lieu of on-site provision will be acceptable. It may be appropriate for an off-site contribution in smaller apartment schemes where a 20% affordable housing contribution would result in less than 3 affordable dwellings to be provided and that needs identified locally would be difficult to meet on site. The calculations for financial contributions will be of at least equal value to that of onsite provision to enable provision elsewhere.
- 12.2. The Interim affordable housing policy sets out the mechanism for calculating the financial contribution based on the RICS Build Cost Information Service.

## **Interim Affordable Housing Policy (2020)**

In accordance with the Local Plan policy LP11, for schemes of more than 10 dwellings, including proposals involving self-contained residential units; the council will negotiate with developers for the inclusion of an element of affordable homes.

The proportion of affordable homes should be 20% of total units on market housing sites, including affordable private rented homes to be provided in build to rent schemes. The proportion may be less where viability evidence demonstrates that there are development costs which would otherwise prejudice the implementation of the proposal. Achievement of a higher proportion of affordable housing on sites will be encouraged.

The affordable homes should be incorporated within the development, but where justified and agreed with the LPA, a financial contribution of at least equal value of median build costs for Kirklees recognised by the RICS Build Cost Information Service (BCIS) may be accepted to provide affordable homes elsewhere or to improve the existing housing stock.

A financial contribution may also be appropriate on smaller apartment developments where a 20% affordable housing contribution would result in less than 3 affordable dwellings to be provided. The 20% affordable housing contribution will normally be rounded to the nearest whole number.

Smaller land parcels on one site developed incrementally will also need to provide affordable housing if the overall site capacity is more than 10 dwellings.

### **The affordable housing provision should:**

- a) cater for the type of affordable need identified in the latest housing evidence in terms of type, tenure, size and suitability to meet the needs of specific groups, taking into account evidence in the Kirklees SHMA (2016) which states:
  - *Evidence of the need for an affordable housing split of 55% Affordable Rent and 45% Intermediate Tenure*
  - *Evidence of the affordable needs by SHMA sub-area and property size*
- b) incorporate appropriate arrangements to retain the benefits of affordability for initial and subsequent occupiers or for the subsidy to be recycled for alternative affordable housing provision; and
- c) be indistinguishable from market housing in terms of achieving the same high quality of design.

### 13. Housing Mix Issues

- 13.1. The SHMA sets out household needs and examines the current range of housing stock. In addition consideration is given to the needs of residents within Kirklees in the Joint Health and Well-being Strategy (JHWS), Kirklees Joint Strategic Assessment (KJSA) and the Kirklees Housing Strategy, which has priority outcomes based on housing need, housing quality and housing growth. In terms of housing need, the strategy seeks to meet a diverse range of housing needs, prioritising those of vulnerable people with a continued and strengthened focus on prevention and early intervention to enable people to access and sustain a suitable home of their own and live as independently as possible.
- 13.2. The Housing Strategy identifies a long term shortfall of extra care accommodation, including for people with dementia. To meet such need, extra care housing which provides for a range of needs including those of frailer older people, is particularly favoured. There is also the need to provide for the care facilities of both adults and children with disabilities, those with long-term illnesses and residents with mental health issues. Where there is evidence of local need, the Council would welcome the inclusion of units which meet these needs. Applicants are encouraged to discuss this aspect at an early stage of scheme development.
- 13.3. Affordable Rent consists of Affordable Rent or Social Rent as set out in the definition in national policy. Intermediate housing includes discounted market sales housing or other affordable routes to home ownership, including Starter Homes as set out in the definition in national policy. For Starter Homes, it should be acknowledged that the 20% discount identified in NPPF is a minimum.
- 13.4. Data from SHMA (October 2016) (Table 7.11) provides evidence on the number of eligible households that could afford starter homes:

	Batley and Spen	Dews and Mirfield	Hudds North	Hudds South	Kirklees Rural – East	Kirklees Rural – West	Kirklees Total
Starter Home Price	£96,000	£101,600	£106,000	£94,080	£152,000	£113,000	£104,000
% existing eligible households considering owner occupation who could afford Starter Homes	33.9%	0%	0%	32.4%	40%	69.3%	<b>31.5%</b>
% newly forming households who would consider owner occupation who could afford a Starter Home	53.5%	20.7%	23.5%	14.4%	34.7%	67.0%	<b>23.3%</b>

13.5. Table 7.8 of SHMA sets out evidence of the affordable needs by SHMA sub-area and property size by setting out the net annual affordable housing imbalance by sub-area, property size and designation.

Sub-area	General Needs		Older Person	Total
	1-2 bed	3 bed	1-2 bed	
Batley and Spen	96	209	10	315
Dewsbury and Mirfield	-89	175	-17	69
Huddersfield North	74	134	-13	195
Huddersfield South	21	139	22	182
Kirklees Rural – East	93	11	3	106
Kirklees Rural – West	173	-25	34	182
<b>Total</b>	<b>367</b>	<b>642</b>	<b>39</b>	<b>1049</b>

13.6. The sub-areas are based on groupings of wards and these are illustrated on the map below:



## **14. Implementation of the Interim Policy**

- 14.1. The Kirklees Local Plan was adopted in February 2019 and includes a housing requirement of 1,730 dwellings per annum. The council is committed to improving housing delivery through a number of initiatives set out in the Housing Delivery Test Action Plan. In meeting needs, as set out in Local Plan Policy LP11, it is important to provide the required mix in terms of tenure and types but without making schemes unviable.
- 14.2. To further support the delivery of housing within the District the approach also sets out how economic viability assessments will be considered when applications do not meet the policy requirements set out in the policy.

## **15. Demonstrating Viability**

- 15.1. When applications cannot fully meet the requirements of the Interim Affordable Housing Policy, a viability appraisal for the proposal will be required that accords with the guidance set out in Appendix B. When applications are compliant with the Local Plan Policy LP11 (20% provision) no viability assessment is required but negotiations will need to take place on mix, tenure and the proportion and affordability of specific affordable products (such as Starter Homes) in accordance with this Interim Affordable Housing policy.

## Appendix A - Transfer Values

As set out in SPD2 (Affordable Housing), the table below sets out the price to be paid to the developer by the Registered Provider or other housing provider accredited by the Council for the affordable element of a scheme. The transfer values have been assessed and considered viable in the Kirklees Local Plan Infrastructure and Viability Study 2015 and help to ensure that the affordable housing are affordable to the occupants at the point of delivery.

The figures represent the price which will be paid per square metre of gross internal floorspace.

<b>Per m2</b>	<b>Affordable &amp; Social Rented</b>	<b>Intermediate</b>
<b>House</b>	£588	£999
<b>Flat</b>	£698	£1171

## **Appendix B - Viability Appraisal Requirements**

### **Background**

The Council fully recognises that financial viability is inherently linked to the ability to satisfy planning policy and to deliver regeneration objectives and economic development.

In the current economic climate this is particularly important in the context of negotiating section 106 contributions/obligations including affordable housing, public open space and education and where such contributions are to be relaxed, or where full policy compliance may not be possible.

Paragraph 57 of NPPF states *'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.'*

### **Pre- Application discussions**

The Council encourages applicants to engage in pre-application discussions around key policy requirements and issues around viability. The council will work with developers to consider alternative approaches that may help developments to deliver against policy objectives and remain viable.

There are small charges for this advice and this is updated periodically. It is a valuable part of the overall process and one which is recommended.

### **Requirements – both full and outline applications.**

The submission of a planning application for a development where a relaxation of 'policy driven' contributions is sought on viability grounds will need to be accompanied by a viability assessment/financial appraisal ('the appraisal').

The Council will expect that this is independently assessed. The independent assessor will be one which is approved by the Council. The cost of the independent financial assessment shall be borne by the applicant as a separate cost to the planning application fee.

Agreement to pay this cost will be required at the time the application is submitted. The application will not be validated without that agreement in writing. In addition the Council will not progress the application until the necessary fee has been paid.

Submission of any planning application for development which is intended to comply with policy requirements will need to be accompanied by a statement which sets out that financial viability has been fully considered and that the full contributions can be met, in accordance with NPPF paragraph 57. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in

national planning guidance, including standardised inputs, and should be made publicly available.