



Name of meeting: **CABINET**

Date: **15th November 2016**

Title of report: **Interim Affordable Housing Policy**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	Not applicable
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by Director & name	Jacqui Gedman - 03/11/16
Is it also signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	Debbie Hogg – 28/10/16
Is it also signed off by the Assistant Director - Legal Governance & Monitoring?	Julie Muscroft – 31/10/16
Cabinet member portfolio	Cllr P McBride - Economy, Skills, Transportation and Planning Cllr N Mather – Housing and Enforcement Management

Electoral [wards](#) affected: All
Ward councillors consulted: N/A

Public or private: PUBLIC

1. Purpose of report

- 1.1. To set out to Members of Cabinet guidelines and interim policy for dealing with affordable housing contributions in new housing developments.
- 1.2. If Members of the Cabinet agree to this approach, then officers are requesting that their Cabinet recommendation is referred to Council to be adopted as interim policy to allow it to be considered as a material consideration in the decision making process for planning applications.

2. Key Points

- 2.1. The Council is required to ensure a supply of new housing. At present the annual target is 1730. Alongside this there is still a requirement for affordable homes in the district.
- 2.2. As part of day to day development management activity officers are making recommendations on new housing developments based upon the policy set out in Supplementary Planning Document 2: Affordable Housing (SPD2). This was adopted in 2008 and has evidence and policies based on that time.
- 2.3. Since then the housing market and economy generally has gone through a recession. Added to that has been a shift in planning policy which has meant there is a greater need for the Local Planning Authority (LPA) to consider the economic viability of developments. This is underpinned by national guidance set out in NPPF. This has resulted in a greater number of viability appraisals received from developers demonstrating that affordable housing at the levels set out in SPD2 cannot be supported.
- 2.4. Alongside this the council has prepared a Local Plan which Council have agreed to consult upon at their meeting on the 12th October 2016. As part of that process the evidence to support an affordable housing contribution has been brought up to date. This has led to a remodelled affordable housing policy in the Local Plan. The changes are set out in Table 1 below.

Policy Element	SPD2	Emerging Local Plan Policy
Threshold to which policy applies	5 units and above	10 and above
% required for Greenfield	30%	20%
% required for Brownfield	15%	20%
Floor space or units	Floor space	Units
Tenure Split	Affordable rent 90% Intermediate 10%. (Paragraph 7.2 SPD2)	Affordable rent 54% Intermediate 46% (based on SHMA evidence)
Consideration of Starter homes	no	yes

Table 1 – Kirklees Affordable Housing Requirements

- 2.5. The evidence related to the levels of affordable housing set out in SPD2 is now dated. In addition, the existing affordable housing requirements are becoming less achievable in financial terms and to justify a lower level entails a protracted viability assessment. In such circumstances officers are of the opinion that the Council needs to consider whether it should move more quickly to a more up to date and better evidenced policy. If so then the primary aims are: to assist further the delivery of new homes and provide a better evidenced

policy position, and therefore a more credible policy position on which to secure affordable homes.

2.6. On this basis, officers have investigated further the benefits of introducing informal policy, for development management purposes, that fast tracks to the Local Plan position.

2.7. In officers view this approach has several benefits:

- a. It provides an up to and evidenced basis on which to calculate affordable housing contributions.
- b. It removes a more onerous floor space calculation in favour of a units based approach – this in itself is a more certain approach for developers.
- c. It increases the threshold to 11 units which assists smaller developers to continue to deliver on often difficult sites (not an inconsequential step given that in the last recorded housing delivery statistic (2014-15) developments of 10 units or less accounted for 44% of the overall delivery)
- d. It introduces a more flexible approach to the type (tenure) of affordable housing provision.
- e. The interim policy is also intended to encourage developers to consider a wide range of housing including extra care housing and a full range of housing solutions for older people.

3. Implications for the Council

3.1. Analysis of housing sites considered at the Strategic Planning Committee since September 2015 is helpful. This shows that in terms of the existing SPD2 policy there are no cases where the full 30% has been achieved. It does show that 20% of affordable housing is an achievable level although there are some, more difficult to deliver sites, which achieve less than this. In all cases the levels have been tested by viability appraisals. Therefore, on this analysis, where the SPD2 thresholds are not being met, then an adjusted policy at this stage will not cause under delivery.

3.2. The interim policy targets a lower level of affordable provision within housing sites. Whilst this has benefits to increasing permissions likely to be delivered in a better timeframe this would mean that the need for new affordable homes, as set out in the Strategic Market Housing Assessment, will not be achieved as quickly.

3.3. In addition New Homes Bonus receipts - which favours affordable units - maybe lower.

4. Consultees and their opinions

4.1. The development of this interim policy has involved input from Strategic Housing colleagues.

5. Additional Information

- 5.1. Officers could have chosen to develop another SPD. For Members information the process for preparing Supplementary Planning Documents is similar to a Local Plan document. However, they are not subject to independent examination by the Planning Inspectorate.
- 5.2. Given the pressing need to bring about a swifter policy response and the position of the Local Plan then an informal approach is felt to be the most appropriate.
- 5.3. Should Council agree to adopt the guidelines and interim policy then the informal policy will be a material consideration carrying weight in the decision making process for planning applications. It will not replace the existing SPD2. However, it is a more reliable and up to date policy position by which officers can make their recommendations.
- 5.4. This interim policy should last until the Local Plan is formally adopted.

6. Officer recommendation and reasons

- 6.1. To set out to Members of Cabinet interim guidelines and interim policy for dealing with affordable housing contributions in new housing development. This is attached as Appendix 1.
- 6.2. If Members of the Cabinet agree to taking this approach, to refer their recommendation to Council to adopt the policy to allow it to be a material consideration in the decision making process on planning applications which will last until the Local Plan is formally adopted.
- 6.3. The reasons for these recommendations are to bring into play an up to date and better policy base on which to seek affordable housing contributions in the short term. This should assist in the delivery of new homes across the district.

7. Cabinet portfolio holder recommendation

- 7.1. Councillor McBride has been briefed on the proposed changes to how the Local Planning Authority secures affordable housing in Kirklees. The changes represent a more realistic and achievable approach to delivering housing that a community needs and will help to provide the necessary bench mark and evidence base for challenging developments which fall short of the policy requirement without clear and compelling reasons.
- 7.2. Councillor Mather welcomes the changes which will assist in delivering housing on all levels. The policy itself represents a solid and up to date position for officers to negotiate with developers the housing that the district needs.

7.3. Since the portfolio holder briefing a small addition to the policy on housing mix has been added.

8. Contact officer and relevant papers

Simon Taylor – Head of Development Management

Tel: 01484 221000

Email: simon.taylor@kirklees.gov.uk

Relevant Papers

- Appendix 1 – Interim Affordable Housing Policy – attached
- Kirklees Supplementary Planning Document 2: Affordable Housing (SPD2)

9. Assistant Director responsible

Paul Kemp - Assistant Director – Place

Tel: 01484 221000

Email: paul.kemp@kirklees.gov.uk

**Draft Kirklees Interim Affordable Housing Policy
2016**

Draft Kirklees Interim Affordable Housing Policy

Introduction

This document provides an interim approach to providing affordable housing in new housing developments in the district.

The Interim Affordable Housing Policy covers the period up to the adoption of the Local Plan, however this statement may be amended over time to reflect any relevant changes to national and local planning policy and evidence. The Policy represents an additional material planning consideration for securing affordable housing as part of the determination of planning applications. It takes account of the changes to the definition of affordable housing, the introduction of Starter Homes and other emerging Government policy and guidance.

The approach outlined here contributes to improving the number of commencements and completions on sites to improve housing delivery. It helps to support us meeting the district's 5 year land supply. The policy also sets out our preferences for early delivery and a process to consider viability issues on planning applications.

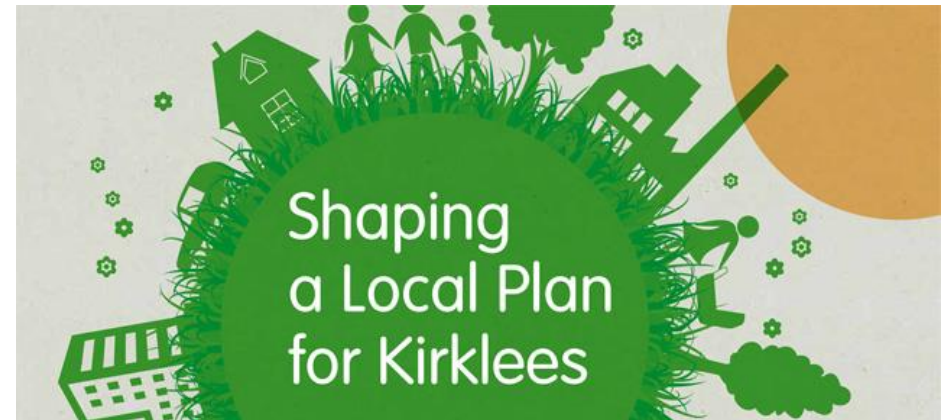
Draft Kirklees Interim Affordable Housing Policy

The delivery of affordable housing is a key priority both nationally and locally. This 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.

The existing Affordable Housing Policy is set out in Supplementary Planning Document 2 – Affordable Housing ['SPD2'] which 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 recession of 2008-2013. There has also been significant change to planning policy and guidance with the issuing of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).

More recent Government policy has also emphasised a shift in focus to include home ownership options and the provision of Starter Homes as detailed in the Housing and Planning Act (2016).



The economic viability of development has also become a particularly prominent issue in recent years. There has been a rise in the submission of viability studies with applications. The independent assessment of these suggests that the current policy requirements as set out in SPD2 of 15% of floorspace on brownfield sites, and 30% of floorspace on greenfield sites on developments of 5 or more dwelling has become more challenging.

Evidence

The key evidence bases for devising an affordable housing policy are the need and delivery for affordable housing as well as the economic viability of any affordable housing requirement. Central Government has also recently amended the definition of affordable housing in the Housing and Planning Act (2016) to include other delivery models such as Starter Homes.

Furthermore additional planning policy guidance has been issued in the NPPG in relation to vacant building credits for the development of brownfield sites. The NPPF has also reinstated guidance when infrastructure contributions through planning obligation should not be sought, setting a threshold of 11 or more units or over 1000 square metres.

Need

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. The NPPF goes on to state that provision should be met on site unless off site provision is justified, and policies should provide sufficient flexibility to account for changing market conditions over time.

The current draft Strategic Housing Market Assessment (SHMA) (October 2015) evidences a net imbalance of affordable housing in the district of 1,049 per annum. 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.

The SHMA has detailed the current required tenure split as 54% affordable rent, and 46% intermediate tenure. It should however be noted that the introduction of Starter Homes by Central Government, and the anticipated Starter Homes Regulations will add a further tenure to this tenure split/mix of affordable housing which has not been currently evidenced by the SHMA.



Affordable Housing at Asquith Fields, off White Lee Road, Batley

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.

Viability

The ability of development within the district to be economically viable is a key consideration when setting an affordable threshold. Paragraph 173 of the NPPF highlights the importance of viability in setting policy standards.

As part of work on the draft Local Plan, a viability study for the whole of the district entitled the Kirklees Local Plan Infrastructure and Viability Study 2015 ('KVS') was commissioned. The KVS has been used to inform policies in the draft Local Plan including the draft affordable housing policy 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.

The KVS has concluded that an interim affordable housing rate of 20% is appropriate as a district-wide target, unless demonstrated to be economically unviable for specific applications.

Definition of Affordable Housing

The Housing and Planning Act became law on 12 May 2016. The Act has amended the definition of affordable housing to include Starter Homes. The new definition of affordable homes is a new dwelling that:

"...is to be made available for people whose needs are not adequately served by the commercial housing market, or are Starter Homes."

Starter Homes are defined as:

'A new dwelling for first time buyers which are at least 23 years old but under the age of 40 that are sold at a discount of at least 20% of market value, with a price cap of £250,000 outside of Greater London, and a time restriction on the property before it can be sold.'

Detailed guidance is expected in the Starter Homes Regulations following the Government's recent technical consultation on proposed Regulations. The technical consultation proposed a number of approaches which included introducing Starter Homes as part of the tenure mix for housing sites and setting a minimum percentage requirement. The consultation document proposed a minimum requirement of 20%. The final approach is yet to be determined and it is expected to be clarified later in 2016.

Vacant Building Credit

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

Affordable housing contributions will be required for any increase in floorspace.

The 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.

Further information on vacant building credit is set out in the NPPG.

Assessment of Evidence

When setting a new affordable housing policy a balance has to be struck. The Council wishes to secure housing delivery across all tenures, although the shortfall in affordable housing also needs to be addressed. The Council wishes to ensure that the policy requirement is economically viable and changes in affordable housing delivery such as Starter Homes are considered.

The KVS evidence indicates that housing development across the district is clearly viable provided an appropriate affordable housing rate is set against an appropriate threshold. The NPPG sets out specific circumstances when contributions for affordable housings should not be sought from small scale developments. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the [Written Ministerial Statement of 28 November 2014](#). The policy has set a threshold of 11 units or more or schemes

over 1000 square metres when affordable housing contributions can be sought. It is noted that this threshold does not align with that set out consultation on the Starter Homes Regulations, which proposes to align the threshold to the definition of major development (10 units).

For the interim affordable housing policy it is however considered appropriate that the most current and consistent position is taken forward for the policy. The threshold will therefore be set at 11 units or more reflecting that set out in the affordable housing policy in the draft Local Plan and that which has been tested by the KVS.

On outline applications where the number of units are not known, the Council will require the applicant to submit an indicative layout to demonstrate the number of dwellings which will be proposed. These amendments represent a significant change to the current 5 unit threshold in SPD2, taking small schemes out of the requirement and helping to make larger schemes more viable.

This is a significant step in assisting smaller sites to come forward. It also assists small developers in the district to have greater confidence in being able to deliver new housing for the district. Recent evidence shows that of the gross completions for 2014/15 44% were on sites of 10 or less.

Given the evidence available it is concluded that an interim affordable housing rate of 20% of the number of market units is appropriate given the current evidence set out in the KVS.

The current SPD2 has different rates for brownfield sites (15%) and greenfield sites (30%), relating to the delivery of floorspace which the KVS has not considered. However it is not considered to be necessary to set a different rate between brownfield and greenfield sites in this

instance. Whilst it is acknowledged that a 20% rate may slightly increase the requirement on brownfield sites, the alterations from floorspace to number of units combined with the vacant buildings credit is considered to mitigate against this change. Units will be sought from this percentage rate which best fit local housing needs.

Notwithstanding the above, the Housing and Planning Act and Starter Homes Regulations have the potential to influence how negotiations on affordable housing take place. The recent technical consultation on Starter Homes Regulations (2016) has provided some indication on possible approaches although the outcome of the consultation will not be known until later in 2016. It is therefore proposed to make reference to Starter Homes in the interim Policy with the approach being consistent with the potential future national regulations or legislation on them. This approach will allow the interim Policy to be implemented at the earliest opportunity but allow for Starter Homes to be taken into account on affordable housing negotiations when the regulation comes into force for Starter Homes.

The policy as set out below is considered to support the delivery of affordable housing within the district ensuring that schemes are economically viable and allows for the consideration of Starter Homes.

Option for Off Site Provision

The policy seeks as a preference on site provision. However, where the LPA considers it appropriate, a financial contribution to be paid in lieu of on-site provision will be acceptable. The calculations for financial contributions will be of at least equal value to that of onsite provision to enable provision elsewhere.



'Excellent Homes for Life' affordable homes, Lowerhouses

Policy

Draft Interim Affordable Housing Policy

On developments of 11 or more dwellings* the council will negotiate with developers for the provision 20% affordable units based on the number of dwellings on market housing sites or meet the requirements of Starter Homes Regulations set out nationally or an appropriate combination of the two.

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.

The affordable housing provision should:

- cater for the type of affordable need identified in the latest housing evidence in terms type, tenure and size;
- incorporate appropriate arrangements to retain the benefits of affordability for initial and subsequent occupiers for affordable rent and shared ownership schemes, or for the subsidy to be recycled for alternative affordable housing provision; or for Starter Homes Schemes to accord with the requirements of the Starter Homes Regulations set out nationally, and
- be indistinguishable from market housing in terms of achieving the same high quality of design.

Transfer values for affordable units are set out in Appendix A and are subject to review where considered appropriate.

*On outline planning applications for housing where the number of dwelling are unknown, the council will require the applicant to provide an indicative layout which will form the basis for affordable housing negotiations.

Housing Mix Issues

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 other relevant evidence document such as those relating to the need for extra care housing or mental health (Mental Health Accommodation Strategy). Such strategies related to specific groups in need include an Accommodation Strategy for Older People in Kirklees which seeks a full range of housing solutions which provide varied support, care and other services so that older people can remain in their homes even as they become frailer or disabled.

To meet such needs 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.

Early Delivery

The delivery of housing is a key priority both nationally and locally and this approach seeks to increase delivery across the district. The annual housing requirement for housing across the district was set at 1,700 per annum in the now revoked Regional Spatial Strategy RSS and until more recently a draft objectively assessed need figure of 1,630 per

annum has been consulted on by the Council. This is based on the evidence in the Council's latest draft Strategic Housing Market Assessment (SHMA) (October 2015).

The Annual Monitoring Report (AMR) sets out the number of dwellings with permission and the number of completions each year. The AMR details that net annual completions each year over the past 5 years has fallen short of the delivery requirement.

Getting the house building market moving is a key aim which will provide homes at a time when the supply has fallen and will help towards the targets for new housing set in existing and emerging local policy to meet the needs of the district in the years ahead. Of considerable importance is that increased supply at a time of economic downturn provides construction jobs and helps to stimulate the local economy.

As detailed in table 1.1 there has been a clear difference between the housing target and actual delivery in recent years. This is a contributory factor in the current lack of a 5 year housing land supply for the district, especially in light of the NPPF requirement for a 20% buffer in the five year land supply calculation as a result of "persistent under delivery" as well as making up a previous shortfall (since the SHMA base date of 2013). Continued under performance will not assist this position as we move forward.

As delivery of new homes becomes a greater priority and recent completions are lower than the housing requirement, the Council do need to consider further incentives to facilitate more starts on site and encourage more completions. The Council is already stimulating delivery through its 'Homescape' approach to bringing forward large

sites, small sites and stalled sites. However, the planning system can help to deliver more.

As set out previously affordable housing will only be required on developments of 11 or more dwellings and the requirement will be adjusted to 20% of units to make schemes more economically viable. However further incentive is required to promote delivery.

Implementation of Interim Policy

To further promote the delivery of housing sites, schemes which meet the affordable housing threshold will have a clause in the S106 or any appropriate condition, which requires sites to commence within 2 years of the date of decision to gain the benefit of the interim policy. If schemes have not been commenced within the 2 year period the affordable housing requirement will have to be renegotiated based on the affordable housing policy at the time.

This clause is aimed at encouraging developers to start on housing projects in the district at the earliest available opportunity and to aid in increasing completions in the district.

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 interim affordable housing policy.

Demonstrating Viability

When applications cannot 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 policy compliant at 20% - no viability assessment is required but negotiations will need to take place on mix, tenure and Starter Homes.

Appendix A - Transfer Values

The table below sets out the price to be paid to the developer by the Registered Provider or other housing provided accredited by the Council for the affordable element of a scheme. The figures represent the price which will be paid per square metre of gross internal floorspace.

Per m2	Social Rented	Intermediate
House	£588	£999
Flat	£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.

The NPPF states that ‘...where obligations are being sought or revised local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled’.

The Ministerial Statement of 6th September 2012, the revisions to the Planning Act 1990 through the Growth and Infrastructure Act and the DCLG Guidance on the review of S106 Affordable Housing contributions set out the need for the Council to consider such aspects more proactively. This advice and the existing SPD2 (Section 13) on Affordable Housing demonstrate the requirement for the Council to strengthen and make its approach on this issue, and the requirements for planning applications, clearer.

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.

The format of the viability approach and evidence is set out in Annex A of DCLG guidance [“Section 106 affordable housing requirements Review and appeal”](#). Although this guidance relates to affordable housing the format in Annex A also provides key variables that are relevant in other circumstances.

Requirements for applications seeking review of planning obligations on planning permissions which relate to the provision of affordable housing. As set out in the DCLG Guidance [“Section 106 affordable housing requirements Review and appeal”](#).