

ANNEX 1: AFFORDABLE HOUSING

The Welsh Government's (WG) National Housing Strategy '*Improving Lives and Communities: Homes in Wales*' (April 2010) sets out the challenges in meeting Wales' housing requirements, the priorities and the actions that will be taken. It sets the priorities of providing more housing of the right type and offering more choice; and improving homes and communities, including the energy efficiency of new and existing homes. Actions that will be taken include increasing the number of affordable homes for purchase or rent, in the right location; and giving people more choice by broadening the range of homes and tenancy arrangements to suit people's income and circumstances. The planning system is seen as an increasingly important means of improving the supply of affordable housing for local people. As such, the Council will seek to secure affordable housing via planning obligations.

1.1 Policy and Guidance

The following policy and guidance are specifically relevant.

- Future Wales: The National Plan 2040 (February 2021) - Policy 2 Strategic Placemaking and Policy 7 on Delivering Affordable Homes.
- Planning Policy Wales 11th Edition (February 2021) paragraphs 4.2.20, 4.2.28 - 31.

Paragraph 4.2.20 states: -

"Where new housing is to be proposed, development plans must include policies to make clear that developers will be expected to provide community benefits which are reasonably related in scale and location to the development. In doing so, such policies should also take account of the economic viability of sites and ensure that the provision of community benefits would not be unrealistic or unreasonably impact on a site's delivery."

And paragraph 4.2.29: -

"Where development plan policies make clear that an element of affordable housing or other developer contributions are required on specific sites, this will be a material consideration in determining relevant applications. Applicants for planning permission should therefore demonstrate and justify how they have arrived at a particular mix of housing, having regard to development plan policies. If, having had regard to all material considerations, the planning authority considers that the proposal does not contribute sufficiently towards the objective of creating mixed communities, then the authority will need to negotiate a revision of the mix of housing or may refuse the application. Development plan policies should also state what the authority would regard as affordable housing and the arrangements it would expect for ensuring that such housing remains reserved for those who need it in perpetuity. All affordable housing, including that provided through planning obligations and planning conditions, must meet the Welsh Government's development quality standards."

- Welsh Office Circular 13/97 Planning Obligations esp. paragraphs B2, B7, B10 and B11.
- Welsh Government Circular 016/2014 The Use of Planning Conditions for Development Management: paragraphs 3.10, 4.21 - 22, 5.41 and 5.80.
- The Community Infrastructure Levy Regulations 2010 (as amended): especially Part 11 on Planning Obligations (Regulations 122 & 123).
- Welsh Government Technical Advice Note 2: Planning and Affordable Housing (2006) esp. paragraphs 10.14 and 12.1-12.7.
- Welsh Government Technical Advice Note 6: Planning for Sustainable Rural Communities (2010) esp. paragraphs 4.1.1-4.2.4 and 4.23.1.
- Welsh Government 'Delivering affordable housing using section 106 agreements: A Guidance Update' (September 2009).

- Welsh Government ‘Welsh Development Quality Requirements 2021: Creating Beautiful Homes and Places (WDQR 2021)’ (July 2021), especially the ‘three detailed requirements’ sections and the ‘space standards’ of Appendices A and B.
- Adopted Torfaen Local Development Plan (2013) Policies (which are set out in full in Part One to this SPG): S1 (Urban Boundaries), S2 (Sustainable Development), S3 (Climate Change), S4 (Place Making / Good Design), S8 (Planning Obligations), H4 (Affordable Housing) and H7 (Gypsy and Traveller Site Allocations). In detail, Policy H4 on Affordable Housing states: -

“In order to achieve a target of approximately 1,132 affordable homes within Torfaen over the period 2006-2021, the Council will, on all residential sites of 3 or more dwellings or over 0.1ha (including if it forms part of a more substantial site over this size), seek to negotiate the on-site provision of up to the following percentage of affordable housing and / or a payment in lieu of on-site provision, by Housing Sub-Market Area, as follows: -

- 1. North Torfaen - 10%;***
- 2. Pontypool - 25%;***
- 3. Cwmbran West & North - 20%; and***
- 4. Cwmbran East & South - 30%.***

These percentages will change upwards if Social Housing Grant is to be used.

These percentages may change by 5% increments (increase or decrease), via Supplementary Planning Guidance, if house prices or construction costs change (up or down) as a result of annual monitoring and an update of the Affordable Housing Viability Study.

The dwelling size and tenure of the affordable housing should contribute to balanced & sustainable communities, reflect local need and normally be designed to the principles of the Welsh Government Development Quality Requirements.”

Table 1: Torfaen LDP Housing Sub-Market Areas by Postcode

Housing Sub-Market Area	Postcodes
North Torfaen	NP4 7 and NP4 9
Pontypool	NP4 0, NP4 5, NP4 6 and NP4 8
Cwmbran West and North	NP44 1, NP44 4 and NP44 5
Cwmbran South and East	NP18 1, NP44 2, NP44 3, NP44 6, NP44 7 and NP44 8

1.2 Definition of Affordable Housing

The Council uses the following definition of Affordability and Affordable Housing which is based upon Planning Policy Wales 11th Edition (2021) and TAN 2 (2006): -

Affordable Housing is a dwelling (including Council or Registered Social Landlord Gypsy & Traveller pitches) where there are secure mechanisms in place to ensure that it is accessible to those who cannot sensibly (in terms of income multipliers) afford market housing (having regard to local incomes and local house prices / rents), both on first occupation and for subsequent occupiers (unless “stair-casing” to full ownership takes place; in which case any subsidy should generally be recycled to provide replacement affordable housing).

Affordable housing includes: -

- Social Rented Housing which is provided by local authorities and Registered Social Landlords (RSLs) where rent levels have regard to WG’s ‘Guideline and Benchmark Rents’;
- Intermediate Housing where prices or rents are above those of social rent but below market housing prices or rents (the lowest quartile of market rent values being ignored for quality reasons). This can include equity share schemes (branded as Help2Own, DIY Homebuy and Mortgage Rescue in Torfaen) where the equity or rented property is retained by an RSL and in smaller rural communities, unsubsidised housing where the initial and resale value of the home is capped at an affordable level linked either to a fixed multiple of local incomes or discount from market value;

- Supported housing including schemes for older people (Extra-care schemes) and schemes to support independent living; and
- Rural enterprise dwellings where justification for the dwelling has been proven and occupancy is restricted in association with the rural enterprise.

All other types of housing are referred to as Market Housing which is private housing for sale or rent where the price is set in the open market and occupation is not subject to control by the local planning authority or RSL. Homes such as low-cost market housing that do not meet the definition will not be considered affordable housing for planning purposes.

1.3 Assessing the Need for Affordable Housing

The latest Torfaen Local Housing Market Assessment (LHMA) 2020, identifies a need for 240 affordable dwellings per annum in Torfaen up to 2025 as follows: -

Table 2: Torfaen Annual Affordable Housing Need (2020 - 2025)

Area	Social Rented	Intermediate		Total
		Low-Cost Home Ownership (LCHO)	Intermediate Rented	
Torfaen	184	46	10	240
Rounded %	75%	20%	5%	100%

Therefore, the Council's affordable housing target now comprises **75% social rented and 25% intermediate provision**. This Table / Annex will be updated accordingly every time the Council produces a new LHMA.

Within this requirement for affordable housing, there is a need for 'Specialist Needs' and 'Extra Care' housing; proposals for which will be developed over time by the Council and its RSL partners based upon evidence of need and the current provider market.

Affordability of Intermediate Housing

The assessment of mortgage eligibility for owner occupation of intermediate housing adopted for this SPG is based upon local affordability using calculations adopted for the Council's Help2Own scheme; with lending for single incomes assumed to be a maximum of 3.75x the income and lending for joint incomes based on a 3.5x maximum multiplier. In addition, the purchaser is likely to also require a mortgage deposit of 5 -10% of the full market value to obtain a mortgage.

The assessment for intermediate rent is based upon Welsh Government Local Housing Market Assessment Guidance; with intermediate rents set no higher than 80% of the 'Hometrack' median market rent for the house type in the Ward.

1.4 Meeting the Need for Affordable Housing

Affordable Housing Threshold and Quota

Torfaen Policy H4, states that the Council will seek to negotiate between 10% to 30% affordable housing (depending on location) on sites of 3 or more dwellings or 0.1ha. However, Council on 15th December 2015, based upon the findings of the Torfaen LDP 2015 Annual Monitoring Report (AMR) residential viability assessment, resolved, subject to annual review, that: -

1. as provided for in LDP Policy H4, the level of affordable housing sought within the North Torfaen Housing Sub-Market Area (HSMA) be reduced from 10% to 5%; and
2. as a matter of 'planning practice' (given that the 3-dwelling threshold of Policy H4 can only be changed by a formal review of the LDP), until viability improves, the threshold at which affordable housing is sought be raised to 10 dwellings (0.33ha) within Torfaen except for the Cwmbran South & East HSMA where the current 3 dwellings (0.1ha) threshold will remain.

Therefore, Table 3 below sets out the Council's general approach, however, in exceptional circumstances an alternative may be appropriate. When this is the case, site viability will form part of the consideration. Exemptions to LDP Policy H4 will comprise proposals for sheltered housing, care homes, hostels, houses in multiple occupation (HMO's), student accommodation and Gypsy & Traveller pitches.

Table 3: Affordable Housing Requirements across Torfaen (from 15th December 2015)

Housing Sub-Market Area (HSMA)	Social Rented Housing	Intermediate Housing	Total Affordable Housing Requirement	Dwellings (Area) Threshold
North Torfaen	4%	1%	5%*	10 (0.33ha) *
Pontypool	19%	6%	25%*	10 (0.33ha) *
Cwmbran West and North	15%	5%	20%*	10 (0.33ha) *
Cwmbran South and East	23%	7%	30%*	3 (0.1ha) *

* Subject to Annual Review in the Torfaen LDP Annual Monitoring Report

Further Clarification Notes: -

1. Gross Dwelling Numbers - LDP Policy H4 (as amended by this SPG - as stated above) sets the site dwelling threshold, over which affordable dwellings will be sought, to the (gross) number of dwelling proposed on the site or conversion scheme. Therefore, no account will be taken of the (net) increase or decrease of existing dwelling numbers on a site in applying this threshold. However, as with any application, the Council will take viability, especially the existing use value, into account in applying its S106 LDP policies and associated SPG; and
2. Site Re-plans - Similarly, after a site has obtained planning permission and the developer submits a site re-plan that changes the overall dwelling numbers, the affordable housing requirement will be recalculated against the proposed whole site numbers, either up or down as appropriate; subject to any S106 obligations pertaining to the site, which can set a minimum level of affordable housing. Subsequent provision of the affordable dwellings will normally be on-site, and the re-plan application should identify the location, tenure, type and size of the affordable homes, which have been agreed by the Council's Housing Strategy Team. However, in some instances the Council may ask for or agree to a payment in lieu of on-site provision, especially if the development has already commenced. In these circumstances, the payment will be calculated against the proposed dwelling sizes within the re-plan area; and if there is a request for a relaxation of any S106 obligation for the reasons of viability, then this will be assessed against the viability of the whole site using the Burrows-Hutchinson Ltd 'Development Viability Model' (DVM), for which the Council will make a standard charge to issue and assess.

Developer Provision of Affordable Housing

In accordance with the need for mixed communities set out by national as well as local policies, the Council's requirement is for 100% of the affordable homes' (as specified by the Council's Housing Strategy Team, based upon local need and the requirements of a 'balanced sustainable community') to be provided freehold on the development site, with any affordable flats in a complete block. As set out in Table 2 above, 75% of the requirement is to be for social rented homes and 25% is to be for intermediate homes; both constructed in accordance with the 'specifications, sizes (GIA) and general internal storage' requirements of the Welsh Development Quality Requirements: Creating Beautiful Homes and Places (WG, 2021) (see **Appendix 3**); and unless agreed by the Council, to the same quality and appearance as the market housing. Therefore, it is recommended that developers submit a 'pre-application enquiry' to ascertain the Council's affordable housing requirements for their site; before drawing up plans and submitting a planning application.

The preferred approach is for the developer to build the homes and transfer them freehold to a named Registered Social Landlord. In addition, the affordable dwellings should be provided to a specification where the RSL or occupiers do not need to spend any additional money for them to be

useable as a dwelling; e.g. gardens to be turfed and ready for use, vinyl floor finishes to all screed areas and rooms containing sanitary-ware, provision of door numbers, etc.

Site maintenance charges (such as for open space or recreation facilities, etc. managed by private maintenance companies) will influence affordability, especially for the social and intermediate rented homes. Therefore, whilst all affordable dwellings on a site will be expected to pay the relevant site maintenance charge; a reduction will need to be made to the price paid for the social and intermediate rented properties so the RSL can pay the charge on behalf of the tenant during their 30-year borrowing period on these properties (after which the RSL can afford to pay the site service charge from the rents in perpetuity, the mortgage having been paid-off). No reduction will be required for the price of the LCHO Intermediate properties. It is also recognised that a reasonable service charge may be appropriate for the maintenance of the built fabric of flats.

Therefore, developers can expect to receive the following payments for the on-site affordable housing (at the time of notice of sale to the Registered Social Landlord (RSL)): -

- **the relevant ‘Social Rented Unit Tariff’ from Table 4 below** (which is the amount an RSL can afford to pay for the home based upon capitalising its benchmark rents less any on-costs, including for management, repairs & maintenance; allowances for voids, bad debts, & major repairs, etc.) **for each social rented dwelling type (less a 30-year allowance to cover any site maintenance charges);**
- **50% of the ‘Market Value’ for each intermediate rented dwelling type (less a 30-year allowance to cover any site maintenance charges);** and
- **50% of the ‘Market Value’ for each intermediate (low-cost home ownership) dwelling type.**

No additional payments shall be made between the landowner, developer or the RSL, such as a contribution towards the planning fees, or for being the nominated RSL for the site, service charges, etc., albeit each side should pay their own legal fees.

Houses			Flats			Bungalows		
Type	GIA m ²	Tariff	Type	GIA m ²	Tariff	Type	GIA m ²	Tariff
7P 4B H	114	£83,936	3P 2B F	65	£50,097	3P 2B B	58	£65,911
6P 4B H	110	£83,336	2P 1B F	53	£42,107			
5P 3B H	94	£71,395						
4P 3B H	88	£70,968						
4P 2B H	83	£65,511						

Note: the above eight dwelling-types represent the usual homes specified by the Council; if another house type is specified, then the RSL will provide a sum based upon the same method of capitalising the rent less on-costs (and subject to a deduction for any site maintenance charges).

Contributions in lieu of full or partial on-site provision, such as a financial payment (see below), provision of the affordable housing on another site or off-site land provision with a financial payment may be accepted in exceptional circumstances. Any off-site provision of dwellings or land would normally be required to be provided within the same Housing Sub-Market Area as the original development site; noting that the site for the off-site provision will generate its own additional affordable housing requirement. The developer will need to evidence the means of delivering the alternative provision, including availability / control of the land, and obtaining planning permission for the development.

Ability for an RSL to Purchase Additional Affordable Units when there is a Policy Shortfall

An Acceptable Cost Guidance (ACG) is published by WG that specifies the ‘works only’ cost (which is paid through Social Housing Grant) of an RSL providing an affordable dwelling (including all fees, bonds, warranties, LTT, RSL overheads, etc.) according to the size (using a specified ‘minimum floor area’, by measuring the gross internal area as defined by the Valuation Office), type (if a flat,

house or bungalow), & specification (in terms of the number of people who can be accommodated according to bedroom sizes) of the dwelling proposed, and the scheme size (different costs are provided for schemes of '11 Homes and Over' and schemes of '10 Homes and Under') - see **Appendices 1 & 2** for details; noting that, RSLs are expected to purchase the 'land' upon which these dwellings are to be built using their own finances.

In general, it should be assumed that Social Housing Grant will not be available to help fund affordable housing provided through Section 106 Agreements. However, where for viability reasons, the Council has accepted that the housing scheme proposal cannot achieve the maximum affordable housing % for that Housing Sub-Market Area under LDP Policy H4 as amended (see Table 3 above), then the developer must give an RSL the opportunity, via the S106 Agreement, to make up any affordable housing 'shortfall' by purchasing, at market value, the additional affordable units (as specified by the Council's Housing Strategy Team) up to the aforesaid LDP Policy H4 maximum affordable housing %; using a combination of Social Housing Grant and their own finances; and within a reasonable time period dependant on the size of the scheme and the proposed development / phasing programme.

Developer Payment in Lieu of 100% On-Site Affordable Housing Provision

In extremely exceptional circumstances, where the Council or an RSL consider that it is impractical to provide affordable housing on a site, a payment in lieu of 100% on-site provision may be appropriate. This could include, for example, a small conversion or apartment block scheme where it is not possible to separate the affordable housing from the market housing and where this would present difficulties in terms of management arrangements, service charges, etc. The payment required in such circumstances will be the Welsh Government's 'works only' ACG for, depending on the number of dwellings proposed (or calculated at 30 dwellings per net developable ha if greater), either a Large Site (11 or more homes) or a Small Site (10 homes and under) for each of the affordable housing types not being provided on-site regardless of tenure (as specified by the Council's Housing Strategy Team) at the time the payment is made, see details in **Appendix 2**. Therefore, it is recommended that developers submit a 'pre-application enquiry' to ascertain if such a payment will be sought; before drawing up plans and submitting a planning application.

Where a scheme relates to the conversion of an existing building, the individual circumstances of the development will be considered. The Affordable Housing requirement for the area in which the site is located will be applied however provision may take the form of either on-site provision or, in limited circumstances, a financial contribution in lieu of on-site provision. The Council will take build and other costs into account and will use the Development Viability Model (DVM) to negotiate an appropriate contribution.

Where serviced land or an alternative site forms part of the contribution, the land, with the relevant planning permission, should be transferred to the RSL at a land value, and accompanied by a financial payment, which allows the RSL to provide the required affordable units within the WG Acceptable Cost Guidance, taking account the sums the RSL would have paid for the affordable units on the serviced land or alternative site.

Developer Payment in Lieu of Part of the On-Site Affordable Housing Provision

Similarly, the Council may wish to secure a payment in lieu of part of the on-site affordable housing provision to use for other types of affordable housing (such as a Council Gypsy and Traveller site, the remodelling of larger existing affordable housing units to meet a need for smaller units, DIY Homebuy, Extra-care facilities, etc.), especially for the intermediate homes (when the 'new-house premium' for purchasing 50% of the market value, may be as much as purchasing a similar sized existing second-hand property on the open market). Again, in such cases, the payment will be the Welsh Government's 'works only' ACG for, depending on the number of dwellings proposed (or calculated at 30 dwellings per net developable ha if greater), either a Large Site (11 or more homes) or a Small Site (10 homes and under) for each of the affordable housing types not being provided on-site regardless of tenure (as specified by the Council's Housing Strategy Team) at the time the

payment is made, see details in **Appendix 2**. Therefore, it is recommended that developers submit a 'pre-application enquiry' to ascertain both the requirements for the on-site provision of affordable units, and if such a part payment will be sought; before drawing up plans and submitting a planning application.

Payment in Lieu of Part of an Affordable Housing Unit

Larger Sites (11 or more homes) - Where the on-site affordable housing requirement would comprise a number of full dwellings plus part of a dwelling, the full dwellings will normally be expected to be provided on-site with a financial payment based upon ACG values relating to the part of a dwelling (see details in **Appendix 2**). For example, where the total affordable housing requirement is 1.3 dwellings, 1 dwelling should be built on-site accompanied by a financial payment in lieu of the 0.3 part of the dwelling. If preferred, the Developer could choose to round up the on-site provision to the next whole number of dwellings in which case the financial payment would not be required. In this scenario, the financial payment for part of a dwelling is the average equivalent ACG value for all the affordable units being provided on the site (regardless of tenure) which results in an average site ACG value for a complete affordable dwelling; and then multiplying the result by the proportion of the dwelling for which the Affordable Housing Payment is being sought. See Table 5 below for an example: -

Table 5: Example of Payment in Lieu of ½ Affordable Dwelling in Cwmbran S&E HSMA (25 dwellings x 30% affordable housing requirement = 7.5 affordable dwellings)

On-Site Affordable House Type	No's (A)	'Large Scheme' ACG (B)	Total ACG Value (A x B = C)
4 Person 2 Bed House	3	£143,000	£429,000
2 Person 1 Bed Flat	4	£108,300	£33,200
TOTAL (D)			£862,200
Average ACG per dwelling (D/ 7 = E)			£123,171
Payment for ½ dwelling (E x 0.5)			£61,586

Smaller Sites (10 homes and under) - Where the affordable housing provision on a small site would only comprise part of a dwelling, a financial payment in lieu of on-site provision will be required. However, in this instance, we cannot base the payment on the average ACG of the on-site affordable dwellings, as there are none. Therefore, the financial payment for part of an affordable dwelling will be based upon average 'equivalent' ACG values (see details in **Appendix 2**) for all the market units being provided on the site. See Table 6 below for an example: -

Table 6: Example of Small Site in North Torfaen HSMA (5 Market Dwellings x 5% affordable housing requirement = 0.25 dwelling)

Market House Type	No's (A)	Size m ² (GIA)	Equivalent RSL House Type	Equivalent 'small scheme' ACG (B)	Total ACG Value (A x B = C)
2 Bed	2	84.6	4 Person 2 Bed House: 83m ²	£157,300	£314,600
3 Bed	2	92.5	5 Person 3 Bed House: 94m ²	£178,100	£356,200
4 Bed	1	111.0	6 Person 4 Bed House: 110m ²	£208,500	£208,500
				TOTAL (D)	£879,300
				Average ACG per dwelling (D/ 5 = E)	£175,860
				Payment for ¼ dwelling (E x 0.25)	£43,965

Use of Financial Payments

All financial contributions made in lieu of affordable housing provision will be spent on the provision of affordable housing products in accordance with an Investment Plan produced and facilitated by the Council's Affordable Housing Sub-Group. Each financial payment will be ring fenced for use within the Housing Sub-Market Area of the originating site unless it is for a facility provided at County level, such as a Council owned Gypsy & Traveller site, Extra-care facilities, etc. Typical uses may comprise Help2Own, DIY Homebuy, purchase and renovation of empty properties, increasing equity in new build properties, adaptations for special needs occupiers and Mortgage Rescue. Where there are Boroughwide needs, it will be at the discretion of the Affordable Housing Sub-Group how those needs are met.

Occupancy Control

Occupancy controls aim to ensure that affordable homes are allocated to households in order to meet a genuine local need. As such, affordable housing will be offered in accordance with the need identified in the Torfaen Common Housing Register and Help2Own list. Occupancy restrictions relating to rural enterprise dwellings are set out in national policy (TAN 6).

Dwelling Types and Sizes

A mix of dwelling types and sizes (both market and affordable) will be required on all sites in order to create balanced sustainable communities. In determining the types of homes, developers should have regard to the nature of the site; and it is recommended to submit a 'pre-application enquiry' to ascertain the Council's affordable housing requirements before drawing up plans and submitting a planning application. All affordable dwellings are required to meet Welsh Development Quality Requirements: Creating Beautiful Homes and Places (WDQR2021), July 2021 (especially the 'three detailed requirements' (1. Homes should be of high quality, innovative and sustainable; 2. Homes should be flexible, responsive to the changing needs of the occupants, meet the changing needs of a variety of households who will occupy the building over its life and be of sufficient size; and 3. Homes should be safe and secure) and the 'space standards' of Appendices A and B) or any subsequent WG Standard.

Integration of Market and Affordable Homes

In designing a housing development scheme, it is important that the scheme is designed as a whole, with both the market and the affordable homes located together, rather than as two separate schemes; similarly, neither should the social or intermediate affordable housing be separated. The Council considers that in order to ensure the creation of mixed and integrated communities, the affordable housing should not be visually distinguishable from the market housing in terms of build quality, materials, detailing, levels of amenity space and privacy.

The affordable homes should not generally be restricted to one part of the site, particularly in larger schemes where they should be distributed evenly across the site; with clusters of 75% social rented and 25% intermediate dwellings across the site in accordance with the provisions of Table 7 below. Planning applications should include plans which identify the location, tenure, type and size of the affordable homes, which have been agreed by the Council's Housing Strategy Team.

Table 7: Number of Clusters under each on-site Affordable Housing percentage

Phase / Site Size (Dwellings)	Number of Clusters under each on-site Affordable Housing Percentage					
	5%	10%	15%	20%	25%	30%
10 or less	£	One	One	One	One	One
11 - 20	£ / One	One	One	One	One	One
21 - 49	One	One	One	One	One	Two
50 - 74	One	One	One	Two	Two	Three
75 - 99	One	One	Two	Two	Three	Three
100 - 149	One	Two	Two	Three	Three	Three
150 - 200	One	Two	Two	Three	Three	Three
201 +	Same provision as 150 - 200 Dwellings, then Maximum of 20 Dwellings per Cluster thereafter					

£ - Where sites would provide less than 1 affordable dwelling (or part of an affordable dwelling), the Council would normally take a financial payment in lieu of on-site provision.

1.5 Securing Affordable Housing

Ensuring Delivery / Phasing

The Council will seek to ensure that the affordable homes are actually delivered and built alongside the market homes. Therefore, it will make provision for 'trigger points' in Section 106 planning agreements to ensure that the affordable housing is provided in step with the market housing or at an agreed time. The Council will ensure that Section 106 Agreements will deliver the affordable housing provision. The onus will be on the developer and RSL to ensure delivery.

1.6 Standard Heads of Terms

The following definitions and clauses are suggested for use as appropriate in Section 106 legal agreements and unilateral undertakings where an affordable housing contribution is required.

Definitions

“Acceptable Cost Guidance (ACG)” means the ‘works only’ cost of providing an affordable dwelling according to the size, type & specification of the dwelling proposed and the scheme size as published by WG; noting that RSLs are expected to purchase the ‘land’ upon which these dwellings are to be built using their own finances

“Affordable Housing” means either a Social Rented Unit or an Intermediate unit constructed and made ready for occupation by those whose incomes generally deny them the opportunity to access suitable housing in the open market

“Affordable Housing Land” means the land shown edged red on Plan [] attached to this Agreement where the Affordable Housing Units are to be provided

“Affordable Housing Payment” means [an off-site financial payment of £ ... increased (but not decreased) by RPI and calculated in accordance with the formula contained within the Council’s Planning Obligations SPG in lieu of the provision of [x] Affordable Housing units within the Development] **or** [means the off-site financial payment calculated by the Council in accordance with paragraphs x and x of the Affordable Housing Schedule annexed to this Agreement in lieu of the provision of Affordable Housing units within the Development]

“Affordable Housing Units” means [x] of Affordable Housing provided within the Development of which [] shall be Social Rented Units and [] shall be Intermediate Units

“Chargee” means any mortgagee or chargee of the RSL or the successors in title to such mortgagee or chargee or any receiver or manager (including administrative) receiver appointed pursuant to the Law of Property Act 1925

“Development Quality Requirements (DQR)” means the design standards and guidance published by the Welsh Government which sets out requirements for all new dwellings and for existing and rehabilitated dwellings built by housing associations

“Fully Serviced” means the proper connections within the Site so as to connect it to surface water drainage facilities and to mains foul drainage facilities water gas electricity and telecommunications and enjoys direct access to the public highway or a roadway constructed to adoptable standards (connecting to the public highway) which is the subject of an agreement under Section 38 of the Highways Act 1980

“Intermediate Unit” means [x]% of the Affordable Housing Units plot number [x] as set out on Plan [x] to be constructed

“Intermediate Value” means the amount contained in paragraph 9 of Schedule 1 Affordable Housing

“Market Housing Units” means those Dwellings within the Development which are general market housing for sale on the open market and which are not Affordable Housing

“Nominated RSL” means an RSL with Welsh Government approved development status in Torfaen County Borough approved by the Council to administer the provisions of Schedule 1 Affordable Housing whose appointment shall be notified by the Council to the Developer in writing

“Notice Period” means the period of three months from the date of receipt by the Nominated RSL and the Council of the Sale Notice

“Protected Tenant” means any tenant who:-

- a) Has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

- b) Has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- c) Has been granted a shared ownership lease by a Registered Social Landlord (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Social Landlord) in respect of a particular Affordable Housing Unit and which tenant has subsequently purchased from the Registered Social Landlord all the remaining shares so that the tenant owns the entire Affordable Housing Unit

“Registered Social Landlord (RSL)” means a registered social landlord within the meaning of the Housing Act 1996

“Sale Notice” means a notice served by the Owner / Developer upon the Council and the Nominated RSL which informs the Council and the Nominated RSL of the commencement of construction of an Affordable Housing Unit

“Social Rented Units” means [x] % of the Affordable Housing Plot Numbers [x] as set out on Plan [x] to be constructed in accordance with the Welsh Governments Development Quality Requirements (DQR)

“Social Rented Value” means the amount contained in paragraph 8 of Schedule 1 Affordable Housing

Example Clauses

Payment

1. Prior to the Commencement of Development the Owner / Developer shall pay to the Council the Affordable Housing Payment
2. The Council shall use the Affordable Housing Payment to provide enable and enhance Affordable Housing within [sub market area]

OR

3. Within [x] working days of approval of the reserved matters application confirming the number and details of Dwellings to be built as part of the Development the Council shall calculate the Affordable Housing Payment and inform the Owner / Developer of the amount in writing
4. Prior to the Commencement of Development the Owner / Developer shall pay to the Council the Affordable Housing Payment to be used by the Council to provide enable and enhance Affordable Housing within [sub market area]
5. The Affordable Housing Payment shall be subject to any increase in RPI from the date of [] to the date of payment

On Site Provision

1. The Owner / Developer shall provide the Affordable Housing Units towards the provision of Affordable Housing within the County Borough of Torfaen
2. Prior to the Commencement of Development the Owner / Developer shall submit to the Council for the Council’s approval (such approval not to be unreasonably withheld or delayed) details of a scheme to provide the Affordable Housing Units (“the Scheme”)
3. The Scheme shall include (but not be limited to) details of:
 - 3.1. Type
 - 3.2. Tenure
 - 3.3. Position (by way of reference to a plan)
 - 3.4. Size; and
 - 3.5. Pricewhich shall be in accordance with the Council’s adopted Planning Obligations Supplementary Planning Guidance current at the time the Scheme is submitted

4. The Scheme shall comply with the requirements of the Welsh Government in cost and design in accordance with the requirements as set out in [Acceptable Cost Guidance (ACG)] [Development Quality Requirements (DQR)] and [the Welsh Housing Quality Standard] [or the equivalent document]
5. The Owner / Developer shall construct the Affordable Housing units in accordance with the approved Scheme
6. The Owner / Developer shall unless otherwise agreed by the Council commence construction of the Affordable Housing Units before the date on which 50% of the Market Housing Units are completed and complete construction of the Affordable Housing Units before the date on which 80% of the Market Housing Units are completed
7. From the date of completion of the Affordable Housing Units they shall not be used other than for Affordable Housing unless paragraph 16 of this Schedule applies
8. The Social Rented Units shall be offered for sale by the Owner to the Nominated RSL at a purchase price based on the dwelling and at 37% of the Acceptable Cost Guidance (ACG) (“the Social Rented Unit Affordable Value”)
9. The Intermediate Units shall be offered for sale by the Owner / Developer to the Nominated RSL at a purchase price of 50% of market value whereby market value has been agreed between the parties based on dwelling type to be as follows:-
 - 9.1 - 2 bed house at a price of £.....
 - 9.2 - 3 bed house at a price of £....
 (“the Intermediate Value”)
10. Within seven days of the commencement of construction of the Affordable Housing Units the Owner / Developer shall:
 - 10.1 serve a Sale Notice on the Nominated RSL offering to sell the Affordable Housing Units to the Nominated RSL at the Intermediate Value or the Social Rented Unit Affordable Value dependent on the tenure of the Affordable Housing Unit pursuant to the provisions of this Agreement; and
 - 10.2 serve a copy of the Sale Notice on the Council
11. The Nominated RSL may accept the offer referred to in paragraph 10.1 above by signing and returning a copy of the offer to the Owner within the Notice Period
12. The Owner / Developer shall not sell any Affordable Housing Unit without having first served a Sale Notice on the Nominated RSL and the Council
13. If the Nominated RSL does not accept the offer referred to in paragraph [...] above or fails to respond within the Notice Period the Owner may dispose of any Social Rented Units free from the obligations set out in this Schedule provided that an affordable housing payment is paid to the Council within 7 days of completion of the sale of the relevant Social Rented Unit equivalent to 63% of ACG
14. If the Nominated RSL does not accept the offer referred to in paragraph [...] above or fails to respond within the Notice Period the Owner shall be entitled to sell the relevant Intermediate Unit as general market housing free from the obligations in this Schedule provided that an affordable housing payment is paid to the Council within seven days of the completion of the sale of the relevant Intermediate Unit equivalent to 50% of the Market Value of the Intermediate Unit
15. No more than [...] % of the Market Housing Units shall be Occupied until 100% of the Affordable Housing Units have been transferred to the Nominated RSL
16. In accordance with paragraph 7 of this Schedule from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing save that this obligation shall not be binding on and shall cease to have effect on

- 16.1. any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successors in title thereto and their respective mortgagees or chargees
 - 16.2. Any nominated RSL Chargee provided that the Nominated RSL's Chargee shall have first complied with the Chargee's Duty or
 - 16.3. Any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor
17. Any Chargee shall prior to seeking to dispose of an Affordable Housing Unit pursuant to any default under the terms of the mortgage or charge shall give not less than one month's prior notice to the Council of its intention to dispose ("Chargee Notice") and
- 17.1. In the event that the Council responds within one month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall cooperate with such arrangements and use its best endeavours to secure such transfers within two months of the Chargee Notice
 - 17.2. If the Council does not serve its response to the Chargee Notice served under paragraph 17.1 of this Schedule within one month then the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule which shall from the time of completion of the disposal cease to apply
 - 17.3. If the Council or any other person cannot within one month of the date of service of its response under paragraph 17.2 of this Schedule secure such transfer then provided that the Chargee shall have complied with the Chargee's Duty the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule which shall from the time of completion of the disposal cease to apply
- PROVIDED THAT at all times the rights and obligations in this paragraph shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage
18. The Affordable Housing Units shall not be subject to a management fee unless otherwise agreed in writing with the Council

Land Transfer

1. Prior to the Commencement of Development, the Owner / Developer shall transfer the Affordable Housing Land to the Nominated RSL Fully Serviced with all associated rights of access at a nil value for the purpose of construction of the Affordable Housing Units
2. The Affordable Housing Land shall be used for the provision of the Affordable Housing Units and shall not be occupied or used in any other manner

RICS definition of Gross Internal Area (GIA) - 6th Edition

Gross Internal Area (GIA): Area of a building measured to the internal face of the perimeter walls at each floor level (see notes).

Includes:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls with clear height above, measured at base level only
- Internal open sided balconies, walkways, and the like
- Structural, raked or stepped floors are treated as a level floor measured horizontally
- Horizontal floors with permanent access below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies, etc.)
- Mezzanine areas intended for use with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with headroom of less than 1.5m
- Pavement vaults
- Garages
- Conservatories

Excludes:

- Perimeter wall thickness and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores and the like in residential property

Notes:

1. The definition of Gross Internal Area is taken from the RICS Code of Measuring Practice 6th Edition 2015, Definition of Gross Internal Area.
2. The GIA excludes the thickness of perimeter walls but includes the thickness of all internal walls. Therefore, it is necessary to identify what constitutes a separate building, e.g., the sum of the GIA of a terrace of buildings, treated as separate buildings, will be different from the terrace treated as a single building.
3. Areas of open ground floors and the like should be excluded.
4. 'Internal face' means the structural wall or plaster coat applied to the structural wall, not the surface of internal linings installed by the occupier.
5. Lift rooms, etc. should be included if housed in a roofed structure having the appearance of permanence (e.g., made of brick or similar building material). Areas covered by enclosures designed solely to mask plant, rooflines, etc. should be excluded.

**Welsh Government Acceptable Cost Guidance Values per House Type & Size / Scheme Size
(August 2021)**

Table A		
Schemes 11 Homes and Over		
Type	GIA m²	ACG
Houses		
10P7B H	152	£261,800
10P6B H	146	£251,500
10P5B H	142	£244,600
9P5B H	136	£234,300
8P6B H	132	£227,400
8P5B H	128	£220,500
7P4B H	114	£196,400
6P4B H	110	£189,500
6P3B H	102	£175,700
5P4B H	98	£168,800
5P3B H	94	£161,900
4P3B H	88	£151,600
4P2B H	83	£143,000
3P2B H	74	£139,400
2P1B H	58	£109,300
Flats		
5P3B F	86	£175,600
4P2B F	73	£149,100
3P2B F	65	£132,700
2P1B F	53	£108,300
1P1B F	40	£81,700
Bungalows		
8P6B B	125	£260,000
7P4B B	108	£224,600
6P4B B	99	£205,900
5P3B B	86	£178,800
4P3B B	74	£153,900
4P2B B	70	£145,600
3P2B B	58	£120,600
2P1B B	50	£104,000

Table B		
Schemes 10 Homes and Under		
Type	GIA m²	ACG
Houses		
10P7B H	152	£288,000
10P6B H	146	£276,700
10P5B H	142	£269,100
9P5B H	136	£257,700
8P6B H	132	£250,100
8P5B H	128	£242,600
7P4B H	114	£216,000
6P4B H	110	£208,500
6P3B H	102	£193,200
5P4B H	98	£185,700
5P3B H	94	£178,100
4P3B H	88	£166,800
4P2B H	83	£157,300
3P2B H	74	£153,300
2P1B H	58	£120,200
Flats		
5P3B F	86	£193,200
4P2B F	73	£164,000
3P2B F	65	£146,000
2P1B F	53	£119,100
1P1B F	40	£89,900
Bungalows		
8P6B B	125	£285,900
7P4B B	108	£247,000
6P4B B	99	£226,400
5P3B B	86	£196,700
4P3B B	74	£169,300
4P2B B	70	£160,100
3P2B B	58	£132,700
2P1B B	50	£114,400

Notes

1. dwelling occupancy, designated by persons, bedrooms and type
2. Gross Internal Area (GIA)
3. ACG 2021 (including on cost)

WG ‘Welsh Development Quality Requirements 2021’ (WDQR 2021) (July 2021)

WDQR 2021 ‘Creating Beautiful Homes and Places’ states “*New affordable homes delivered ... under section 106 ... and planning conditions will only be required to meet the **Appendix A** and **Appendix B** ‘space requirements’ for agreements entered into after 01 October 2021.*”

Appendix A - Homes should be of sufficient size to meet the needs of occupants, have a convenient layout for everyday living and have adequate circulation space.

Space requirements will be met where:

- The dwelling provides at least the Gross Internal (floor) Area (GIA) and built-in storage area set out in Appendix B.
- Accessibility requirements will be satisfied if dwellings are designed to meet the Lifetime Homes Standards as published by the Joseph Rowntree Foundation.
<http://www.lifetimehomes.org.uk/pages/revised-design-criteria.html>
- Homes are provided with adequate facilities for clothes washing, drying and a dedicated airing cupboard containing an appropriate source of heat.
- A dwelling with two or more bed spaces has at least one double (or twin) bedroom.
- Critical room dimensions meet intended purposes, in particular: -
 - A single bedroom must have a floor area of at least 6.5m² and must be at least 2.1m wide.
 - A double or twin bedroom must have a floor area of at least 11.5m².
 - One double (or twin bedroom) must be at least 2.75m wide and every other double (or twin) bedroom must be at least 2.55m wide.
- The minimum floor to ceiling height is 2.3m for at least 75% of the GIA.
- Gross Internal (floor) Area (GIA) is measured to the internal finished surfaces of main containing walls on each floor, including private staircases, internal partitions, flues and ducts; it excludes external dustbin enclosures or stores, any porch open to the air or enclosed.
- The measurement of floor area of common access flats excludes the area of the communal stairs and circulation space.
- The measurement of floor areas of individual ground floor external access flats includes the area occupied by the staircase and entrance hall necessary to gain access to the first floor flat. The areas of the ground floor and upper floor flats (walk-up) shall be averaged in order to make comparisons against the minimum floor areas shown above.
- Space for mechanical and electrical installations should be provided in addition to the above general storage areas.
- The areas in the table are based on single or two storey homes and it is recognised that larger homes and homes over two storeys will have a proportionate increase in area.

Appendix B - Minimum Floor Areas

Home Designation	Home Type	Floor Area (GIA) m ²	General Storage m ² (included in GIA)
7P4B	2 Storey House	114	3
6P4B	2 Storey House	110	3
5P3B	2 Storey House	93	2.5
4P3B	2 Storey House	88	2.5
4P2B	2 Storey House	83	2.5
3P2B	2 Storey House	74	2
3P2B	Bungalow	58	2
3P2B	Flat - Walk up	65	2
3P2B	Flat - Common access	58	2
2P1B	Flat - Walk up	53	1.5
2P1B	Flat - Common access	50	1.5

Note: Provided that designs do not compromise the quality of homes intended to be delivered by this standard, a reduction of up to 5% of the above GIA may be applied.