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**Monmouthshire Local Development Plan
Affordable Housing
Supplementary Planning Guidance
July 2019**

**Monmouthshire County Council
Adopted Local Development Plan 2011-2021**

**Affordable Housing
Supplementary Planning
Guidance**

July 2019

Planning Policy

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1. INTRODUCTION

- 1.1 This note is one of a series of Supplementary Planning Guidance (SPG) notes that have been prepared to provide supporting information and advice on the implementation of the Council's development plan policies. This SPG is intended to offer clear guidance on the main considerations that will be taken into account by the Council when reaching decisions on planning applications and in this case how planning policy on affordable housing will be delivered in practice.
- 1.2 This SPG has been revised in order to update housing data in Sections 2 and 3 and to provide simplification and clarity with regard to a number of other areas, for example Sections 4A, 4B and 4C2. Section 4B1 has been revised following a change to the method for calculating financial contributions towards affordable housing. These changes are informed by experience and viability evidence.
- 1.3 Status
- 1.3.1 This SPG is prepared in the context of the Monmouthshire County Council Adopted Local Development Plan (LDP), February 2014.
- 1.3.2 SPG supplements the Council's development plan, with only the policies contained in the development plan having the special status afforded by Section 38 (6) of the Planning and Compulsory Purchase Act 2004. However, the Welsh Government (WG) advises that SPG may be taken into account as a material consideration in the determination of planning applications and appeals.
- 1.3.3 This SPG has been adopted following public consultation. It constitutes a material consideration to be given weight in planning decisions.

2 THE AFFORDABLE HOUSING ISSUE

- 2.1 A significant issue for Monmouthshire is the fact that house prices are high in relation to earnings so that there is a need for additional affordable housing in the County in both urban and rural areas, particularly for those that live and work here.
- 2.2 Affordability of housing is a concern throughout Wales. In October 2018 the average house price for Wales was £186,256 and the house price to earnings ratio was 6:1. By comparison, in Monmouthshire the average house price in September 2018 was £307,600 and the lower quartile house price to earnings ratio was 9:1 (Source: Hometrack 30/10/2018).
- 2.3 These figures illustrate how difficult it is for local people to purchase their first home or move into a larger home in the County when their family

circumstances change. In 2018, the full-time gross weekly pay for Monmouthshire residents was £638.50 (Males £690.90 and Females £567.50), compared to the Wales gross weekly pay of £518.60 (Males £551.90 and Females £474.10). However, the full-time gross weekly pay by workplace presents a different picture with people working in the County earning only £537.80 per week (Males £578.90 and Females £469.30), compared to the Wales figures of £509.00 per week (Males £541.60 and Females £469.50) (Source: NOMIS 30/10/18). In other words, Monmouthshire has a dual economy. The qualifications, skills and earnings of the residents are above the regional and national average, however, for those working in the area earnings are lower and employment is relatively less skilled.

- 2.4 Monmouthshire's net population growth has historically been due to inward migration: its population would otherwise decline due to there being more deaths than births. The County has a demographically imbalanced population, with an increasing proportion over 65 and over 85 year olds, and a low proportion of 20-40 year olds. With a median age of 48 and a small economically active population, the County's economic base is currently weak. The County's housing market continues to perform strongly, with house sales achieving a high percentage of the asking price, and sales being secured quickly. Properties in Monmouthshire take, on average, 4.6 weeks to sell compared to the Wales average of 10.2 weeks. Properties also achieve, on average, 95% of asking price. House prices, therefore, will remain at a level way above what local people can afford. (Source: Hometrack Housing Intelligence, September 2018)
- 2.5 The planning system is an increasingly important means of improving the supply of affordable housing for local people. Monmouthshire County Council recognises this and is keen to ensure that developers and local people have clear guidance on how its development plan policies and decisions on planning applications will operate and thereby contribute to one of the desired outcomes of the Council's Corporate Business Plan 2017 - 2022. One of the key issues within the Business Plan is 'the provision of quality housing, including affordable housing, to meet the needs of our communities and to address the needs of our changing demography'. The link between housing and health is well established and long standing. The quality of the home has a substantial impact on health; a warm, dry and secure home is associated with better health. In addition to basic housing requirements, other factors that help to improve well-being include the neighbourhood, security of tenure and modifications for those with disabilities. The benefits to health, learning and prosperity are also reflected in page 42 of Planning Policy Wales Edition 10, December 2018. Monmouthshire's Well-being Plan, April 2018 recognises the 'need to readdress the supply and mix of housing stock to ensure suitable and affordable housing is available to all demographic groups'.
- 2.6 This SPG has been prepared in the context of the most recent WG planning policy on affordable housing contained in *Planning Policy Wales Edition 10*, December 2018 and Technical Advice Note 2 *Planning and Affordable Housing*, June 2006.

2.7 Planning Policy Wales (PPW) Edition 10, December 2018

2.7.1 *PPW* provides the overarching national strategic guidance with regard to land use planning matters in Wales. Paragraph 4.2.1 states in part that ‘new housing development in both urban and rural areas should incorporate a mix of market and affordable house types, tenures and sizes to cater for the range of identified housing needs and contribute to the development of sustainable and cohesive communities’.

2.7.2 Paragraph 4.2.2 of *PPW* 10 states that the planning system must:

- ‘identify a supply of land to support the delivery of the housing requirement to meet the differing needs of communities across all tenures;
- ‘enable provision of a range of well-designed, energy efficient, good quality market and affordable housing that will contribute to the creation of sustainable places; and
- ‘focus on the delivery of the identified housing requirement and the related land supply’.

2.7.3 With regard to need, paragraph 4.2.25 states: ‘A community’s need for affordable housing is a material planning consideration which must be taken into account in formulating development plan policies and determining relevant planning applications.’

2.8 Definitions of Affordable Housing

2.8.1 Affordable housing is defined in paragraph 4.2.25 of *PPW* 10:

‘Affordable housing for the purposes of the land use planning system is housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers’.

2.8.2 Paragraph 4.2.26 extends this definition further noting:

‘Affordable housing includes social rented housing owned by local authorities and RSLs (registered social landlords) and intermediate housing where prices or rents are above those of social rent but below market housing rents and prices’.

These definitions of affordable housing contrast with the definition in paragraph 4.2.26 of general market housing:

‘All other types of housing are referred to as ‘market housing’, that 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 authority’.

Paragraph 4.2.26 goes on to say:

'It is recognised that some schemes may provide for staircasing to full ownership and where this is the case there must be secure arrangements in place to ensure the recycling of capital receipts to provide replacement affordable housing'.

2.9 Affordability

2.9.1 There is a need to define 'affordability'. WG guidance defines this as:

'the ability of households or potential households to purchase or rent property that satisfies the needs of the household without subsidy' (WG TAN2, para 4.1).

The subsidy referred to in the quotation above is a subsidy on the property itself, which helps make it more affordable. There are different levels of subsidy depending on the different types of tenure, therefore creating a wide range of affordable options.

2.9.2 This should be determined in each local housing market area in an Authority's area and would be based on such factors as ratio of household income to the price of property.

3. **AFFORDABLE HOUSING NEED IN MONMOUTHSHIRE**

3.1 The **Local Housing Market Assessment (LHMA)** commissioned by the Council in June 2010 helped inform the target of 960 affordable homes over the LDP plan period of 2011 -2021 set out in Policy S4. The recent LHMA (September 2018) shows an annual shortfall of 468 affordable homes. However, this figure should not be taken as an annual target for delivery of affordable housing as new build homes are not the total solution to the supply of affordable homes in the County. The affordable housing target remains the LDP target of 960 over the 2011-2021 plan period.

4. **MONMOUTHSHIRE'S PLANNING POLICIES ON AFFORDABLE HOUSING**

4.1 Policy S4 of the Adopted Monmouthshire LDP is the primary means of achieving the affordable housing target referred to in the above paragraph. Policy S4 sets out the thresholds at which affordable housing has to be provided and the percentage of affordable housing that will be required in each case, depending on the location of the development site.

Policy S4 – Affordable Housing Provision

Provision will be made for around 960 affordable homes in the Local Development Plan Period 2011-2021. To meet this target it will be expected that:

- In Main Towns and Rural Secondary Settlements as identified in Policy S1 development sites with a capacity for 5 or more dwellings will make provision (subject to appropriate viability assessment) for 35% of the total number of dwellings on the site to be affordable.
- In the Severnside settlements identified in Policy S1 development sites with a capacity for 5 or more dwellings will make provision (subject to appropriate viability assessment) for 25% of the total number of dwellings on the site to be affordable.
- In the Main Villages identified in Policy S1:
 - Development sites with a capacity for 3 or more dwellings will make provision for at least 60% of the total number of dwellings on the site to be affordable.
- In the Minor Villages identified in Policy S1 where there is compliance with Policy H3:
 - Development sites with a capacity for 4 dwellings will make provision for 3 dwellings to be affordable.
 - Development sites with a capacity for 3 dwellings will make provision for 2 dwellings to be affordable.
- In the open countryside developments involving the conversion of existing buildings or sub-division of existing dwellings to provide 3 or more additional dwellings will make provision (subject to appropriate viability assessment) for 35% of the total number of dwellings to be affordable.
- Development sites with a capacity below the thresholds set out above will make a financial contribution towards the provision of affordable housing in the local planning authority area.

Other than in Main Villages, in determining how many affordable houses should be provided on a development site, the figure resulting from applying the proportion required to the total number of dwellings will be rounded to the nearest whole number (where half rounds up).

The capacity of a development site will be based on an assumed achievable density of 30 dwellings per hectare.

- 4.2 The settlement hierarchy referred to in Policy S4 is set out in LDP Policy S1, namely:

Main Towns: Abergavenny, Chepstow and Monmouth

Severnside Settlements: Caerwent, Caldicot, Magor, Portskewett, Rogiet, Sudbrook and Undy

Rural Secondary Settlements: Usk, Raglan, Penperlleni and Llanfoist

Main Villages: Cross Ash, Devauden, Dingestow, Grosmont, Little Mill, Llandewi Rhydderch, Llandogo, Llanellen, Llangybi, Llanishen, Llanvair Kilgeddin, Mathern, Penallt, Pwllmeyric, Shirenewton/Mynyddbach, St Arvans, Trellech, Werngifford/Pandy

Minor Villages: Bettws Newydd, Broadstone/Catbrook, Brynygwenin, Coed-y-Paen, Crick, Cuckoo's Row, Great Oak, Gwehelog, Llanarth, Llandegveth, Llandenny, Llangwm, Llanover, Llansoy, Llantilio Crossenny, Llantrisant, Llanvair Discoed, Llanvapley, Mitchel Troy, Penpergwm, The Narth, The Bryn, Tintern, Tredunnoch

Open Countryside

- 4.3 There are five types of residential development as set out in A-E that could arise in providing affordable housing under Policy S4 which need further consideration:

- A) Developments of 5 or more dwellings in Main Towns, Rural Secondary Settlements and Severnside Settlements.
- B) Developments of 1 – 4 dwellings in Main Towns, Rural Secondary Settlements and Severnside Settlements.
- C) Developments in Main Villages
- D) Developments in Minor Villages.
- E) Developments in the open countryside.

- 4.4 Specific guidance on these matters is provided on the following information sheets and the checklists in Appendix 4:

A. DEVELOPMENTS OF 5 OR MORE DWELLINGS IN MAIN TOWNS, RURAL SECONDARY SETTLEMENTS AND SEVERNSIDE SETTLEMENTS.

When an application for residential development is received in these settlements the first step in its assessment will be to:

A.1 Establish the net site area and calculate the capacity of the site based on an assumed achievable density of 30 dwellings per hectare.

- i. It is a requirement of LDP Policy DES1 criterion i) that in order to make the most efficient use of land the minimum net density of residential development should be 30 dwellings per hectare. The net developable area is defined as excluding areas taken out for other uses such as employment or which are undevelopable for one reason or another, including internal access roads and incidental open space between houses, play areas etc. Similar considerations should be taken into account when calculating the site capacity in relation to Policy S4.
- ii. The capacity of a site is calculated as a 'net' figure with the number of any existing dwellings on a site that are to be demolished, subdivided or retained subtracted from the overall capacity to give a final capacity figure for the purposes of Policy S4.

A.2 If the capacity of the site is 5 or more dwellings then the affordable housing requirement to be provided on site is calculated at 35% in Main Towns and Rural Secondary Settlements and 25% in Severnside settlements, subject to a) and b) below.

A.2.a) Should the development not be achieving 30 dwellings per hectare and it is considered that there is not a material non-compliance with Policy DES1 i) then the affordable housing requirement should be calculated on the **agreed** capacity of the site (rather than the 'theoretical' capacity of 30 dwellings per hectare).

A.2.b) In determining how many affordable houses should be provided on a development site, the figure resulting from applying the proportion required to the total number of dwellings will be rounded to the nearest whole number (where half rounds up.)

A.3 If the capacity of the development site is below the threshold of 5 dwellings then a financial contribution towards affordable housing in the local planning authority area will be required (see B)

A.4 When the threshold for affordable housing is met the following considerations will be taken into account in the implementation of Policy S4:

- i. The mix of house types, sizes and tenure should reflect local needs. (This must be established from the Council's Housing Services section on a site-by-site basis in accordance with the particular needs of the community in which the site is located).

- ii. Provision for affordable housing will be secured through Section 106 Agreements.
- iii. **Affordable housing should be provided on-site** (unless there are exceptional circumstances that justify off-site provision, as considered in paragraph 5.10 of this SPG) and should reflect the characteristics of the locality or the rest of the site.
- iv. Householder permitted development rights may be withdrawn so that control may be exercised over the enlargement or alteration of dwellings in ways that would change their affordability for future occupiers.
- v. In seeking to negotiate an element of affordable housing on a site the Council will take into account: site size, suitability, and the economics of provision; whether there will be particular costs associated with development of the site; and whether the provision of affordable housing would prejudice the realisation of other planning objectives that need to be given priority in the development of the site.
- vi. Planning obligations and affordable housing will have an impact on land values and landowner expectations. Applicants are expected to have considered in full the overall cost of development, including the required policy-based planning obligations and any reasonably known abnormal costs, when negotiating the purchase of land. Viability assessments will be limited to sites where there are exceptional, **unforeseen** circumstances outside the scope of normal market risk, for example where a recession or similar significant economic changes have occurred since the plan was adopted or where there is an overriding regeneration benefit in developing the site.
- vii. Where a site is still under option by a developer, it will **always** be expected that the policy requirements can be met, provided that the scheme is not abnormally costly or abnormally under value for the area. These costs must be reflected in the price that the developer purchases the site for so ensuring that the proposed development site is economically viable to meet the Council's affordable housing requirements. If there is any doubt about viability on a particular site, it will be the responsibility of the developer to offer the landowner a lesser price for the site, or to maximise the mix of market units on site to achieve the affordable housing policy.
- viii. Where a viability assessment is deemed necessary, the Council will require applicants to provide detailed information and supporting evidence. The level of supporting evidence required will depend upon how far the viability inputs deviate from acceptable parameters based on industry norms. Any 'assumptions' must be clearly explained and justified. An 'open book' approach is required. Any evidence relating to the viability assessment will then be independently assessed by the District Valuer, the cost of which will be borne by the developer. All viability appraisals will be published in the public domain.
- ix. General requirements:

- The Council's policy requirements should be the starting point for applicants and viability appraisals should subsequently work backwards from this. The Council will expect land transactions to reflect policy, rather than the other way round.
- Evidence should be provided to show what consideration has been given to alternatives in order to improve viability. Such measures can include altering development densities, layout and mix of market dwellings.

A.6 Layout and Design

The Council requires the **'pepper-potting'** of affordable housing, rather than provision in enclaves. **Properties for affordable housing should be in clusters of no more than 6 - 15 units, depending on the overall size of the development.** The design and materials of dwellings built to comply with affordable housing policies should be similar to that of adjoining market housing.

B. DEVELOPMENTS OF 1 – 4 DWELLINGS IN MAIN TOWNS, RURAL SECONDARY SETTLEMENTS AND SEVERNSIDE SETTLEMENTS.

It is a basic principle of Policy S4 that all residential developments (including at the scale of a single dwelling) should make a contribution to the provision of affordable housing in the local planning authority area, irrespective of whether or not the size of the development falls below the threshold for on-site provision. However, the following exemptions apply in relation to residential conversions.

Residential Conversions

- Single Barn Conversions will be exempt from paying a financial contribution due to viability. However, where there is an increase of 2 - 4 dwellings resulting from the conversion of a barn or complex of barns, a financial contribution will be sought using the calculation below and in Appendix 3.
- Commercial conversions such as flats above shops or offices involving proposals for 1 – 4 dwellings will be exempt from making a financial contribution towards affordable housing.
- Conversions of Listed Buildings for 1 - 4 dwellings will also be exempt from paying a financial contribution.

B.1 If the capacity of the site falls below the threshold (1 - 4 units) at which affordable housing is required, prior to obtaining planning permission the applicant will need to enter into a S106 agreement to pay a financial contribution towards affordable housing in the housing market in which the site is located. An example of a standard Section 106 agreement that will be used for this purpose is set out in Appendix 2. An affordable housing contribution will be liable to be paid on completion and prior to occupation of each dwelling to which the payment relates.

- i A financial contribution towards affordable housing will have an impact on land values and landowner expectations, therefore, the Council will expect that applicants have considered in full the overall cost of development, including the required financial contribution towards affordable housing, and any abnormal costs, when negotiating the purchase of land.
- ii The required financial contribution is calculated by using the Commuted Sum (CS) Rate for each area of Monmouthshire and the internal floor space of the dwelling(s) in m². It should be noted that integral garages, as part of any scheme, would be counted within the internal space. The figure of 58% is the proportion that the landowner/developer would fund were the units to be delivered on site.

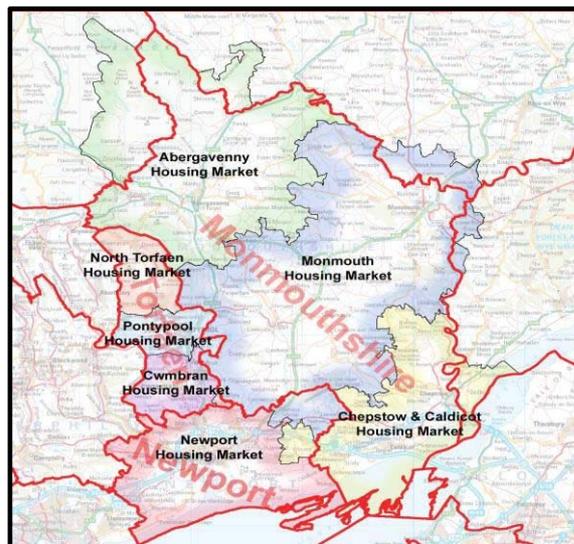
Formula: Financial Contribution = Internal Floor Area (m²) x CS Rate x 58%

- iii The calculation can be obtained from the Council's Planning Officer. The contribution will be set at the equivalent of 35% of the agreed capacity of the site (25% in Severnside).

Commuted Sum Rates and example calculations are given in Appendix 3.

Financial contributions gathered by the Council will be used to deliver affordable housing in the Housing Market Area (HMA) from which they are collected. The Council may combine financial contribution from different sites if appropriate and will spend contributions in the way that best achieves the Council's priorities for affordable housing, which could include new build, purchasing an existing home, converting existing buildings or bringing an empty home back into use. The number of units resulting from expenditure may be more or less than the units used to calculate the contribution as dwelling types, tenure, specifications and other aspects will vary from scheme to scheme.

The map below shows the three Housing Market Areas in Monmouthshire. (Source: Monmouthshire Local Housing Market Assessment 2018)



- B.2** The Council does not wish to hinder the supply of dwellings from self-builders who could be building to meet their own needs. Therefore, **self-builders whose developments fall below the thresholds will not be required to make a financial contribution.** This is consistent with the approach set out in the Community Infrastructure Levy Regulations and the same definition of 'self-build' will be used as set out in the CIL Regulations 54A, 54B, 54C and 54D as inserted by the 2014 Regulations (see the example of a standard Section 106 agreement in Appendix 2).

- i. If a developer wishes to make a claim for an exemption under the self-build provision then a form¹ must be submitted **prior to completion** of each dwelling to which the payment relates confirming that the dwelling is intended to be occupied by the owner of the land.
- ii. **Within 6 months of occupation** a further form must be submitted evidencing occupation by the owner. The Council will at this point agree to defer the payment for the duration of two-and-a-half years from that notification.
- iii. Any such exemption will be subject to a ‘claw-back’ mechanism so that **if the criteria for self-build status are not complied with within a period of three years from the occupation of the dwelling then the requirement for an affordable housing contribution will be reinstated**. Should there be compliance with the three year period, the Council will, through a variation of the Section 106 Agreement, confirm that no payment will be required on that specific dwelling.

¹ The exemption form is available in Annex C of the standard Section 106 agreement.

C. DEVELOPMENT IN MAIN VILLAGES.

C.1 Sites allocated in main villages under LDP Policy SAH11 with the specific purpose of providing 60% affordable housing.

There is a specific issue in the County relating to the provision of affordable housing in rural areas due to the limited ability of existing residents in the countryside, particularly young people, to afford housing, which restricts their ability to remain within their existing communities if they are in housing need. In order to secure the provision of essential affordable housing in rural areas, and acknowledging that 100% affordable housing rural exception sites rarely come forward, a number of housing sites have been allocated in Main Villages under LDP Policy SAH11 with the specific aim of providing affordable housing for local people.

These sites are required under Policy S4 to provide a **minimum of 60% affordable housing**:

- i. The mix and tenure of the 60% affordable housing will be based on local housing need and this information can be established from the Council's Housing Strategy Officer on a site-by-site basis in accordance with the particular needs of the community in which the site is located.
- ii. Unlike general housing sites, therefore, **when the figure resulting from applying the proportion of affordable housing required to the total number of dwellings is not a whole number, there is no rounding down, only rounding up.**
- iii. Policy SAH11 sets a maximum size of development at 15 dwellings in order to ensure that any development is of a 'village scale', in keeping with character of the settlements. This amount may be smaller in certain villages, as set out in Policy SAH11, which indicates the scale of development that is considered to be acceptable having regard to the characteristics of the village and the particular site. It is unlikely to be acceptable for these lower site capacities to be exceeded unless it can be clearly demonstrated that there is no adverse impact on village form and character and surrounding landscape.
- iv. The LDP *Affordable Housing Viability Study* confirmed that a requirement for 60% affordable housing on rural sites will enable developer contributions towards the cost of providing affordable housing as the high market values for housing in rural areas would still provide residual land values far in excess of existing agricultural land values that should be sufficient incentive to bring land forward for development. **It must be recognised that the sole purpose for allocating these sites is to provide affordable housing for local people in rural areas. Without the provision of 60% affordable housing there is no justification for releasing these sites and anticipated land values should reflect this accordingly.**

- v. It is intended that this affordable housing will be brought forward using the mechanisms set out in section 5 below. The Council recognises that there may sometimes be abnormal costs that restrict the ability of a development to provide the financial subsidy to achieve affordable housing requirement. Initially, however, there is no intention to use financial subsidy to support 60% affordable housing sites.
- vi. Given the particular circumstances of these 60% affordable housing sites, the Council will not apply its normal policy of requiring 'pepper-potting' of affordable housing throughout a development. It is recognised that the best way of developing these sites and enabling the market housing to achieve its full potential for achieving financial subsidy for the affordable housing element is to allow the market dwellings to be grouped together.
- vii. All affordable housing achieved on LDP sites in Main Villages will give priority to local residents through the Council's Rural Allocations Policy.

C.2 Other Sites in Main Villages

There is scope for infill development to take place within the Village Development Boundary as identified in the LDP, For other sites within the development boundaries of Main Villages (i.e. excluding the 60/40 allocated sites) provision of 35% affordable housing on site will be required for both new build development and conversions. However, the following exemptions apply in relation to residential conversions.

Residential Conversions

- Single Barn Conversions in Main Villages will be exempt from paying a financial contribution due to viability. However, where there is an increase of 2 - 4 dwellings resulting from the conversion of a barn or complex of barns, a financial contribution will be sought using the method set out in Section 4 B1 and Appendix 3.
- Commercial conversions such as flats above shops or offices involving proposals for 1 – 4 dwellings will be exempt from making a financial contribution towards affordable housing, although it is recognised that there will be few opportunities for such conversions within Main Villages.
- Conversions of Listed Buildings to 1 to 4 dwellings will also be exempt from paying a financial contribution.

D. DEVELOPMENT IN MINOR VILLAGES

- D.1** Policy S1 identifies Minor Villages where small scale development will be allowed in the circumstances set out in LDP Policy H3. Minor Villages are settlements that (subject to detail) are suitable for minor infill of no more than 1 or 2 dwellings resulting from the filling in of a small gap between existing dwellings. Applications relating to infill developments should also refer to the Infill Development Supplementary Planning Guidance.

Infill developments in Minor Villages, consisting of 1 or 2 dwellings, will make a financial contribution towards affordable housing in the local planning authority area. This will be set at the equivalent of 35% of the number of dwellings proposed in the development. However, the following exemptions apply in relation to residential conversions in Minor Villages.

Residential Conversions

- Single Barn Conversions in Minor Villages will be exempt from paying a financial contribution due to viability. However, where there is an increase of 2 - 4 dwellings resulting from the conversion of a barn or complex of barns, a financial contribution will be sought using the method set out Section 4 B1 and Appendix 3.
 - Commercial conversions such as flats above shops or offices involving proposals for 1 – 4 dwellings will be exempt from making a financial contribution towards affordable housing, although it is recognised that there will be few opportunities for such conversions within Minor Villages.
 - Conversions of Listed Buildings to 1 to 4 dwellings will also be exempt from paying a financial contribution.
- D.2** Policy H3 does contain an exception that allows for planning permission to be granted for up to 4 dwellings on an infill site that demonstrably fits in with village form (including not resulting in the loss of an open space that forms an important gap or open area) and is not prominent in the landscape. As such proposals are 'exceptional' in that they go beyond the normal definition of 'minor infill', it was considered appropriate to seek a higher proportion of affordable housing than would normally be required. Policy S4, therefore, requires that in the Minor Villages identified in Policy S1 where there is compliance with Policy H3:
- D.2.a) Development sites with a capacity for 4 dwellings will make provision for 3 dwellings to be affordable.**
- D.2.b) Development sites with a capacity for 3 dwellings will make provision for 2 dwellings to be affordable.**
- i. In such cases, it would be expected that the single open market dwelling will provide cross-subsidy towards the on-site provision of the affordable housing. Each site will be subject to a viability assessment which will determine the amount of cross-subsidy required.

E. DEVELOPMENT IN THE OPEN COUNTRYSIDE

E.1 Conversion and sub-divisions

Policy S4 requires that in the open countryside developments involving the conversion of existing buildings or sub-division of existing dwellings to provide 3 or more additional dwellings will make provision for 35% of the total number of dwellings to be affordable. It is considered that this should always be the aim in dealing with applications of this type. Nevertheless, it is recognised that provision of affordable housing on site is not always practicable in such situations. It is also more difficult to estimate the capacity of a development proposal involving existing buildings in comparison with a simple area calculation.

The Council, therefore, will adopt a more flexible approach in such situations, although generally **a financial contribution towards affordable housing in the local planning authority area will still be required. This will be set at the equivalent of 35% of the agreed capacity of the site** and utilise the Affordable Housing Financial Contribution Calculator (set out in Section 4 B and Appendix 3) but careful consideration will be given to the viability and practical implications of conversion and sub-division applications in assessing the level of financial contribution required. However, the following exemptions apply in relation to residential conversions.

Residential Conversions

- Single Barn Conversions will be exempt from paying a financial contribution due to viability. However, where there is an increase of 2 - 4 dwellings resulting from the conversion of a barn or complex of barns, a financial contribution will be sought using the method set out in Section 4 B1 and Appendix 3.
- Conversions of Listed Buildings to 1 to 4 dwellings will also be exempt from paying a financial contribution.

E.2 Departure applications beyond settlement boundaries

In accordance with the decision made by Full Council on 21 February 2019 departure applications on unallocated sites are required to deliver 35% affordable housing and no negotiation will be entertained.

E.3 Rural Exceptions Policy

Policy H7 of the Adopted LDP provides a further planning policy mechanism for the provision of affordable housing in rural areas of Monmouthshire. It makes provision for the siting of small affordable housing sites in or adjoining villages on land that would otherwise not be released for residential development. **In such circumstances affordable housing should be provided on site at a rate of 100%.** Policy H7 is set out below:

Policy H7 – Affordable Housing Rural Exceptions

Favourable consideration will be given to the siting of small affordable housing sites in rural areas adjoining the Rural Secondary Settlements, Main Villages and Minor Villages identified in Policy S1 that would not otherwise be released for residential development provided that all the following criteria are met:

- a) The scheme would meet a genuine local need (evidenced by a properly conducted survey or by reference to alternative housing need data) which could not otherwise be met in the locality (housing needs sub-area);**
- b) Where a registered social landlord is not involved, there are clear and adequate arrangements to ensure that the benefits of affordable housing will be secured for initial and subsequent occupiers;**
- c) The proposal would have no significant adverse impact on village form and character and surrounding landscape or create additional traffic or access problems.**

- i. In seeking to identify such sites it needs to be recognised that isolated sites in the open countryside or those within small, sporadic groups of dwellings are unlikely to be acceptable. Policy H7 specifically refers to sites adjoining Rural Secondary Settlements, Main Villages and Minor Villages. Any proposals for locations other than these would be treated as ‘Departure’ applications and will need special justification. Another important consideration is the balance of the pattern of settlements in the community.
- ii. It will also be necessary to demonstrate that the scheme would meet a genuine local need. This local need would normally relate to the rural parts of the community council area in which the site is located. Evidence of local need can be established by a number of different means, including local surveys, local consultation events, other forms of primary evidence and housing register data. As with the affordable housing sites in Main Villages, the Council’s Rural Allocations Policy will apply.

E.4 Build Your Own Affordable Home Policy

Monmouthshire County Council positively encourages local people to build their own affordable home to meet their own housing needs through the rural exceptions policy. Single plot exception sites are only permitted with restrictions and the ‘Build Your Own Affordable Home’ policy will be available on the website (Link will be included in final SPG).

5. OPTIONS FOR THE DELIVERY OF AFFORDABLE HOUSING

5.1 The Council requires that affordable housing is managed by a Registered Social Landlord (RSL) zoned for development in Monmouthshire by the Welsh Government, as procedures are already in place to ensure that dwellings remain affordable in perpetuity.

5.2 Types of affordable housing.

The Council will use the following definitions of affordable housing:

- **Social rented housing** is let by RSLs to households taken from the Council's Housing Register who are eligible for social rented housing. Rents will be set at Welsh Government benchmark levels.
- **Intermediate housing** is homes for sale and rent provided at a cost above social rent but below market levels. These can include shared equity, and intermediate rent. All of these will be provided through a Registered Social Landlord (RSL).
- **Neutral Tenure** is where tenure of housing is not predetermined but can vary according to needs, means and preferences of households to whom it is offered. This incorporates the tenures described above. This arrangement gives flexibility in that it allows the tenure type of a property to change between occupiers, or even with the same occupier. So, for example, on first occupation a house might be social rented, but when that occupier vacates the property the next occupier may choose the Homebuy option. In another instance, a property might initially be rented, but if the economic circumstances of the occupier improve, they may choose to convert to Homebuy. **Neutral tenure is the delivery option preferred by Monmouthshire County Council.**
- **Specialist affordable housing** may be sought for people with specific accommodation requirements that may not otherwise be met and where a need has been identified. These can include sheltered retirement housing, adapted housing for households with a physical disability and supported housing, for example for young homeless people or people with learning difficulties.

5.3 The Council's preferred method of achieving affordable housing through Section 106 Agreements is for developers to build houses for transfer to a Registered Social Landlord (RSL). This method will ensure mixed communities where the required pepper-potting of the affordable housing units will achieve a scheme where the affordable units are otherwise indistinguishable from the owner occupied homes.

5.4 Prior to submission of a planning application developers will be expected to liaise with the Council to agree the mix of units required to meet housing need.

5.5 All affordable housing units, except for intermediate housing delivered under Policy SAH11, must be constructed to the Welsh Government's Development

Quality Requirements (DQR), which includes Lifetime Homes, or successor Welsh Government scheme. Developers' DQR Compliant house types will be checked to ensure that they meet the required standards. (See Appendix 1 for guidance).

- 5.6 The Council has a long term commissioning partnership with RSLs to secure the strategic provision of all types of housing accommodation. This covers minimum standards of service in management terms, allocation of Social Housing Grant, specialisms of the Housing Associations and the long-term allocation of housing sites. The Council's preference is for developers to work with RSLs zoned by the Welsh Government for developing in Monmouthshire and it will normally allocate each site to its preferred RSL on the basis of the RSL's development capacity, other properties in the area, rental levels and other relevant issues. Should there be a need for specialist/purpose built disabled housing, for example, and an element of social housing grant was required the Council would only be able to allocate grant to a zoned RSL.
- 5.7 The financial arrangements for the transfer of completed affordable housing units from the developer to the RSL are to be calculated using the current Acceptable Cost Guidance rates published by the Welsh Government's Housing Directorate. The percentage that the RSL can afford to pay, based on the rental income they would receive for the properties, is 42% of ACG. This leaves the landowner/developer to fund the 58% which in the past would have been covered by Social Housing Grant. The developer will then be required to sell the properties to the RSL at this percentage rate. (This percentage rate does not apply to units delivered under Policy SAH11).
- 5.8 When negotiating option agreements to acquire land for residential development, developers should take account of affordable housing requirements. The amount of Social Housing Grant (SHG) that is available to the Council is very limited and is not normally made available for the delivery of Section 106 sites. The Council's preferred financial arrangements for the provision of affordable housing, as outlined in paragraph 5.7, have been agreed following consultation with the RSLs to ensure a consistent and equitable approach that also provides certainty for developers when they are preparing their proposals.
- 5.9 Affordable housing land or dwellings that are transferred to a RSL will be used to provide affordable housing on a neutral tenure basis to qualifying persons from the Council's Housing Register.
- 5.10 To achieve the aim of developing mixed and balanced communities the Council seeks to provide affordable housing on-site. Only in exceptional circumstances will off-site provision be considered. This might occur, for instance, in situations where the management of the affordable housing cannot be effectively secured (as in sheltered retirement housing schemes). In such cases it may be possible for off-site new build housing or refurbishment/conversion of existing properties to provide a satisfactory alternative that meets the needs of the local community. Such schemes would be subject to the financial arrangements outlined in paragraph 5.7. In the

exceptional circumstances where on-site provision is not considered appropriate and off-site units cannot be delivered as an alternative site is not available, the Council will consider accepting an affordable housing contribution payment in lieu of on-site affordable housing provision. See Section 4 B.1 for information on the methodology for calculating this financial contribution and Appendix 3 for example calculations.

5.11 It is recognised that some specialist housing schemes such as Sheltered Housing may be challenging to deliver and any affordable housing contribution would be subject to viability. Should it be necessary the Council will commission an independent viability assessment, the cost of which will be borne by the developer. All viability assessments will be published in the public domain.

5.12 There are a number of people living in the County Council area that have specific housing requirements as a result of learning/physical disabilities and/or medical conditions. In certain circumstances, where particular housing needs cannot be met through use of existing affordable housing stock, new purpose built special needs units may be required. Where there is evidence of need, and it is considered appropriate by the Council, special needs housing may be provided as part of the affordable housing contribution through the involvement of a RSL to ensure that these units remain affordable in perpetuity.

5.13 It is recognised that the development costs of providing specific needs affordable housing may be higher than general needs affordable housing and therefore it may be acceptable for a lower proportion of affordable units to be provided, subject to an assessment of viability, or the provision of grant to meet those additional costs.

5.14 Affordable housing delivered under Policy SAH11

5.14.1 Affordable housing delivered under Policy SAH11 will be a mix of social rented units and intermediate housing depending on the local need identified by the Council. All units for social rent will be constructed to Welsh Government Development Quality Requirements, which includes Lifetime Homes. Intermediate housing will be constructed to a standard agreed by the Council and their RSL partners.

5.14.2 Affordable housing delivered under Policy SAH11 will be transferred to the Council's preferred RSL at 38% of Welsh Government ACG for social rented units, 50% of ACG for low cost home ownership units and 60% of ACG for intermediate rent units.

5.15 Service Charge and Ground Rents

5.15.1 Rents or purchase price are usually seen as the main measures of affordability, but the whole cost of occupation could be significantly higher where service charges and/or ground rents are also payable, for example in a block of apartments. Where there are to be service charges and/or ground

rent then these should also be set at an affordable level if properties are to be classed as affordable. If at the time of determining a planning application the level of service charge or ground rent is not known, an appropriate condition or section 106 agreement clause will be applied.

5.15.2 Where a developer intends to appoint a management company who will be responsible for the maintenance of open spaces, landscaping and/or unadopted highways, which will be paid for through a charge collected from residents, this charge will not be payable in relation to any of the affordable housing units (irrespective of affordable tenure), either by the nominated RSL or the subsequent occupants of the affordable homes.

5.16 There are currently three Registered Social Landlords zoned by the Welsh Government to operate within Monmouthshire. These are:

Melin Homes
Monmouthshire Housing Association
The Pobl Group

It should be noted that whilst these are the current zoned RSL partners in Monmouthshire, changing circumstances might result in the Council fostering different partnership links in the future and seeking approval from Welsh Government.

6. THE PLANNING APPLICATION AND SECTION 106 PROCESS

6.1 Type of Planning Application

6.1.1 Where new or additional housing is to be provided as part of a planning application on sites where the policy threshold has been exceeded affordable housing will be sought in accord with Adopted LDP Policy S4. This would apply to the following types of planning applications:

- All outline or full applications (including change of use applications, other than those exceptions listed in Section 4 i.e. single barn conversions, commercial conversions for 1 to 4 dwellings and conversions of listed buildings to provide 1- 4 dwellings)
- All renewal applications, including where there has been no previous affordable housing obligation

6.1.2 Affordable housing will be required on sites falling below the threshold if the Council considers that there has been a deliberate attempt to subdivide the site or phase the total development in an attempt to avoid the threshold. This includes conversions in barn complexes.

6.2 Negotiation and Application Process

6.2.1 The provision of affordable housing is just one of a number of issues that need to be taken into account in applications for residential development. Discussion and detailed negotiations will also need to cover such matters as design, layout, density, landscape, open space and recreation provision, education, access and other financial contributions that may be needed. Developers should refer to other LDP policies and SPG in this respect.

6.2.2 In implementing the affordable housing policies of the adopted development plan, the Council will seek to ensure that there is close consultation between planning, housing and legal officers concerned with the operation of these policies, as well as other external agencies, including developers and RSLs. In order to ensure that negotiations on affordable housing provision are conducted as effectively as possible, the Council will expect all parties involved to follow the procedures outlined:

Pre Application Discussions

With Planning and Housing Officers to establish the element of affordable housing required. There is a formal pre-application service which is available at a cost and which can include other Council officers from sections such as Highways and Biodiversity, dependent on the level of service required. More information is available on the Council's website using the following link: <https://www.monmouthshire.gov.uk/planning/pre-application-advice-service/>



Submission of Planning Application

The proposal should contain an element of affordable housing which meets the housing needs identified by Housing Officers, clearly identifying how the affordable housing requirements are proposed to be met, including the appropriate mix, number, type and locations of dwellings. *(It is recognised that this information might not be readily available if the application is in outline.)*



Further Detailed Negotiations where necessary

Planning Department in consultation with the Housing Department consider the local need for affordable housing (quantity and type).
Effective and early partnership between developer, RSL and the Council is critical. The Officer report will require information on the mechanisms for providing affordable housing. This should include that the developer build and transfer to a RSL, which is the Council's preference. In order to transfer to a RSL detailed plans of dwellings would need to be confirmed as meeting their requirements.



Consideration by Council's Delegation Panel/Planning Committee as appropriate



If recommendation to approve is accepted, the Council resolve to grant planning permission subject to planning conditions and the signing of a Section 106 Agreement, including an agreed Affordable Housing Scheme.

Council's Solicitor prepares Section 106 Agreement with Developer, in consultation with RSL where necessary. Legal agreement signed by all parties.



Council issues decision on planning application.

6.3 Section 106 Agreements

6.3.1 The precise form of Section 106 Agreement will depend on the circumstances of individual cases including the ownership of the site and the terms of any obligation or agreement between the owner and a RSL. However, Section 106 legal agreements will normally include clauses setting out requirements with regard to the following issues:

- The mix of affordable housing types, sizes sought as part of the development
- The location and distribution of affordable housing within the development site
- The minimum design standards required for the affordable housing units
- The timing of the construction and occupation of the affordable housing in relation to the development of the whole site, including appropriate restrictions on general market housing occupation
- The price, timing and conditions for the transfer of the land or affordable housing to a RSL
- The arrangements regarding the future affordability, management and ownership of the affordable housing
- With outline applications (where the proposed number of dwellings is not known, but where there is a likelihood that the site threshold will be exceeded) the Agreement will ensure that the appropriate proportion of new housing will be affordable.

6.3.2 It will be necessary for the Section 106 Agreement to include appropriate long-term occupancy arrangements. The Council will require full nomination rights, which will be exercised according to the Council's allocations policy as current at the time. The key requirement is that any housing that is provided as affordable should remain in the affordable housing stock each time there is a change of occupant.

6.3.3 The flowchart set out above is unlikely to be applicable to small scale developments that fall below the affordable housing thresholds set out in Policy S4 and that, therefore, require a financial contribution. An example of a standard Section 106 agreement has been prepared for such circumstances to ensure that there is no undue delay in the determination of the application (Appendix 2). A unilateral undertaking may also be an option if only a monetary contribution is required. This is a simplified version of a planning agreement, which is relatively quick and straightforward to complete, and is entered into by the landowner and any other party with a legal interest in the development site.

7. MONITORING AND TARGETS

7.1 As referred to in Section 3 above, the affordable housing target for the Monmouthshire LDP is 960 affordable dwellings over the plan period 2011-2021. This was based on the findings of a 2010 Update to the LHMA carried out in 2006.

7.2 The LDP estimated that the potential affordable housing provision if all sites achieve their maximum requirement is as follows:

• 35% on new sites in Main Towns and Rural Secondary Settlements	446
• 25% on new sites in Severnside settlements	242
• 60% on rural housing allocations in Main Villages	120
• 20% on large site windfalls	68
• 20% on current commitments	108
• Completions 2011 – 2013	127
• Small site windfalls	74
Total	1,185

7.3 The period for this estimate had a base date of 1 April 2013. Table 1 below shows the total dwelling completions and total affordable housing completions from this base date

Table 1 – Housing Completions since 1 April 2013

Year	Total Completions	Affordable Housing Completions
2013/14	230	36
2014/15	205	17
2015/16	234	63
2016/17	238	47
2017/18	279	84
2018/19	443	131

Source: Monmouthshire County Council Joint Housing Land Availability Studies 2013 - 2019

7.4 The Council is required to produce an Annual Monitoring Report (AMR) for the LDP that has to be published every October for the preceding financial year. The LDP monitoring framework includes a number of indicators relating to affordable housing. The AMRs are available to view on the Council's website.

Contacts

Monmouthshire County Council:

For affordable housing **planning policy** general enquiries please contact:

Planning Policy Section

Planning Policy Manager, County Hall, Rhadyr, Usk, Monmouthshire,
NP15 1GA

Tel: 01633 644827.

Email: planningpolicy@monmouthshire.gov.uk

Housing & Communities

Strategy & Policy Officer, Housing & Communities, County Hall, Rhadyr, Usk,
Monmouthshire,

NP15 1GATel: 01633 644474

E Mail: louisekorbett@monmouthshire.gov.uk

Potential developers should contact the Development Management Section:

Development Management Section

Development Services Manager, County Hall, Rhadyr, Usk, Monmouthshire,
NP15 1GA

Tel: 01633 644800. Email: planning@monmouthshire.gov.uk

Registered Social Landlords:

Melin Homes

Ty'r Efail, Lower Mill Field, Pontypool, Torfaen. NP4 0XJ

Tel: 08453 101102.

Email: gerrard.williams@melinhomes.co.uk

Monmouthshire Housing Association

Nant-Y-Pia House, Mamhilad Technology Park, Mamhilad, Monmouthshire,
NP4 0JJ

Telephone: 01495 761112

Email: karen.tarbox@monmouthshirehousing.co.uk

The Pobl Group

Exchange House, The Old Post Office, High Street, Newport, NP20 1AA

Tel: 01633 679911

Email: neil.barber@poblgroup.co.uk

David James

Rural Housing Enabler Monmouthshire

C/o Monmouthshire Housing Association, Nant-Y-Pia House, Mamhilad Technology
Park, Mamhilad, Monmouthshire, NP4 0JJ

Tel: 07736 098103

Email: david.james@rhe-monandpowys.co.uk

APPENDIX 1

ACG Floor Areas

Unit Type	Floor Area (Square Metres)
7 person 4 bed house	114
6 person 4 bed house	110
5 person 3 bed house	94
4 person 3 bed house	88
4 person 2 bed house	83
3 person 2 bed bungalow	58
3 person 2 bed flat (walk up)	65
3 person 3 bed flat (common access)	59
2 person 1 bed flat (walk up)	51
2 person 1 bed flat (common access)	46
5 person 3 bed bungalow (wheelchair)	115
4 person 2 bed bungalow (wheelchair)	98
3 person 2 bed bungalow (wheelchair)	80

1. Notional Floor Areas are provided as guidance on the expected floor areas that would be achieved if Development Quality Requirements (DQR) were implemented in full for each house or flat type listed.
2. NFAs are not a minimum size as the main criterion should be all designs comply with DQR and not merely achieve a notional floor area. House or flat designs with full DQR compliance can be achieved with floor areas below the notional figures and the degree of reduction will depend on the efficiency of the shape. It is not considered that anything less than 3/4 square metres smaller could possibly comply with DQR.

Calculation of Notational Floor Area (NFA)

1. Notional (or Net) Floor Area 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.
2. The measurement of floor area of common access flats excludes the area of the communal stairs and circulation space.
3. 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 notional floor areas shown above.
4. The floor area in rooms where the ceiling height is less than 1.50m is excluded.

APPENDIX 2

Example of Standard Section 106 Agreement for Affordable Housing Financial Contributions

DATED

**PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY
PLANNING ACT 1990 (AS AMENDED) RELATING TO
MONMOUTHSHIRE NP**

BETWEEN

MONMOUTHSHIRE COUNTY COUNCIL

And

And

Monmouthshire County Council
County Hall
The Rhadyr
Usk
NP15 1GA
P40/7.0

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THIS DEED is dated

2019

- (1) MONMOUTHSHIRE COUNTY COUNCIL of County Hall The Rhadyr Usk Monmouthshire NP15 1GA (the Council).
- (2) of Monmouthshire NP (the Owner).
- (3) (incorporated and registered in England and Wales with Company Number) of Monmouthshire NP (the Mortgagee).

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Development Site is situated.
- (B) The Owner is the freehold owner of the Development Site subject to a mortgage in favour of the Mortgagee but otherwise free from encumbrances.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) The Mortgagee is the registered proprietor of the charge dated referred to in entry number of the charges register of Title Number and has agreed to enter into this deed to give its consent to the terms of this deed.
- (E) The Council having regard to the provisions of the Local Development Plan and to all other material considerations resolved that Planning Permission should be granted for the Development subject to the prior completion of this deed.
- (F) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against all Owners and their respective successors in title.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed:

1.1 Definitions:

Affordable Housing: social rented, intermediate rented and low cost home ownership, provided to eligible households, the total cost (including service charges) of which will be available and affordable to persons whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for subsidy to be recycled for alternative affordable housing provision as set out in schedules 2 and 3.

Base Rate: the higher of 5% and the base rate from time to time of Barclays Bank plc.

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 [but disregarding for the purposes of this deed and for no other purpose, the following operations: demolition works; site clearance; ground investigations; site survey works; temporary access construction works; archaeological investigation; and erection of any fences and hoardings around the Development Site.

Completion of Development: the issuing of a compliance certificate for this development issued under either regulation 17 (completion certificates) of the Building Regulations or section 51 of the Building Act 1984 (final certificates)

Commence and Commences shall be construed accordingly.

Commencement Date: the date Development Commences.

Default Interest Rate: 4% per annum above the Base Rate.

Development: the development of the Development Site authorised by the Planning Permission.

Dwelling: the dwelling to be constructed on the Development Site pursuant to the Planning Permission

Development Site: the land at Monmouthshire NP shown edged red on the Plan and registered at HM Land Registry with absolute title under title number CYM

Form 1: Self Build Exemption Claim Form to be submitted prior to completion of the Development.

Form 2: Self Build Exemption Claim Form to be submitted within 6 months of occupation of the self-build dwelling.

Index Linked: increased in accordance with the following formula:

Amount payable = the payment specified in this deed x (A/B) where:

A= the figure for the Retail Prices Index (All Items) that applied immediately preceding the date the payment is due.

B= the figure for the Retail Prices Index (All Items) that applied when the index was last published prior to the date of this deed.

Occupation and Occupied: occupation for the purposes permitted by the Planning Permission.

Plan: the plan attached as Annex A.

Planning Application: the application for planning permission registered by the Council under reference number DM/

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application in the draft form attached as Annex B.

Retail Price Index: the retail price index compiled and published by the Office of National Statistics

Self-Build: all homes built or commissioned by individuals or groups of individuals for their own use, either by building the home on their own or working with builders.

TCPA 1990: Town and Country Planning Act 1990.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in Wales

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes faxes and e-mail.
- 1.11 A reference to **this deed** or to any other deed or document referred to in this deed is a reference to this deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.

- 1.12 References to clauses and Schedules are to the clauses and Schedules of this deed.
- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The covenants, restrictions and obligations contained in this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Development Site and their respective successors and assigns.
- 2.3 The covenants, restrictions and obligations contained in this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3. CONDITIONALITY

With the exception of clauses 2, 3, 7, 10, 11, 13, 17, 19, 20, 21, 22 and 24 (which take effect immediately), this deed is conditional on the grant and issue of the Planning Permission.

4. COVENANTS TO THE COUNCIL

The Owner covenants with the Council to:

- (a) observe and perform the covenants, restrictions and obligations contained in Schedule 1.
- (b) give at least 14 Working Days written notice to the Council of the intended Commencement Date.

5. COVENANTS BY THE COUNCIL

The Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in Schedule 2.

6. INDEXATION

6.1 All financial contributions payable to the Council shall be Index Linked.

6.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

7. MORTGAGEE'S CONSENT

7.1 The Mortgagee consents to the completion of this deed and declares that its interest in the Development Site shall be bound by the terms of this deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Development Site.

7.2 The Mortgagee shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Development Site.

8. RELEASE

No person shall be liable for any breach of a covenant, restriction or obligation contained in this deed after parting with all of its interest in the Development Site, except in respect of any breach subsisting prior to parting with such interest.

9. DETERMINATION OF DEED

The obligations in this deed (with the exception of clause 11) shall cease to have effect if before the Commencement of Development, the Planning Permission:

- (a) expires;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

10. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

11. COUNCIL'S COSTS

The Owner shall pay to the Council on or before the date of this deed:

- (a) the sum of £500.00 in respect of the Council's legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this deed.

12. INTEREST ON LATE PAYMENT

If any sum or amount has not been paid to the Council by the date it is due, the Owner shall pay the Council interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

13. OWNERSHIP

13.1 The Owner warrants that no person other than the Owner and the Mortgagee has any legal or equitable interest in the Development Site.

13.2 Until the covenants, restrictions and obligations in Schedule 1 have been complied with, the Owner will give to the Council within 10 Working Days, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Development Site:

- (a) the name and address of the person to whom the disposition was made; and
- (b) the nature and extent of the interest disposed of.

14. REASONABLENESS

Any approval, consent, direction, authority, agreement or action to be given by the Council under this deed shall not be unreasonably withheld or delayed.

15. CANCELLATION OF ENTRIES

15.1 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged (and subject to the payment of the Council's reasonable and proper costs) the Council will issue a written confirmation of such performance or discharge.

15.2 Following the performance and full satisfaction of all the terms of this agreement or if this deed is determined pursuant to clause 9 (and subject to the payment of the Council's reasonable and proper costs and charges) the Council will on the written request of the Owner cancel all entries made in the local land charges register in respect of this deed.

16. DISPUTES

Any dispute, controversy or claim arising out of or relating to this deed, including any question regarding its breach, existence, validity or termination or the legal relationships established by this deed, shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

- (a) the tribunal shall consist of one arbitrator appointed jointly by the parties;
- (b) in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;
- (c) the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally).

17. NO FETTER OF DISCRETION

Nothing (contained or implied) in this deed shall fetter or restrict the Council's statutory rights, powers, discretions and responsibilities.

18. WAIVER

No failure or delay by the Council to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. FUTURE PERMISSIONS

Nothing in this agreement shall prohibit or limit the right to develop any part of the Development Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.

20. AGREEMENTS AND DECLARATIONS

The parties agree that:

- (a) nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and
- (b) nothing in this deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

21. NOTICES

21.1 Any notice to be given under this deed must be in writing and must be:

- (a) sent by pre-paid first class post or other next working day delivery service.

21.2 Any notice to be given under this deed must be sent to the relevant party as follows:

- (a) to the Council at County Hall The Rhadyr Usk Monmouthshire NP15 1GA marked for the attention of Legal Services
- (b) to the Owner at Monmouthshire NP
to the Mortgagee at

or as otherwise specified by the relevant party by notice in writing to each other party.

21.3 Any notice given in accordance with clause 21.1 and clause 21.2 will be deemed to have been received:

- (a) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Working Day after posting.

21.4 A notice given under this deed shall not be validly given if sent by fax or e-mail.

21.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

22. THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

23. VALUE ADDED TAX

23.1 Each amount stated to be payable by the Council or the Owner to the other under or pursuant to this deed is exclusive of VAT (if any).

23.2 If any VAT is at any time chargeable on any supply made by the Council or the Owner under or pursuant to this deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

24. GOVERNING LAW

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales as it applies in Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The Common Seal of
MONMOUTHSHIRE
COUNTY COUNCIL
was affixed to this document
in the presence of:

Member of Council

Head of Law

Executed as a Deed by

in the presence of:

.....
OWNER

.....
SIGNATURE OF WITNESS
NAME
ADDRESS
OCCUPATION

.....
OWNER

The COMMON SEAL of

was affixed to this document in the
presence of:

Schedule 1 Owner's Covenants to the Council

1. AFFORDABLE HOUSING CONTRIBUTION

- 1.1 The Owner shall pay to the Council the sum of £ towards the cost of providing off site affordable housing within Monmouthshire on the following trigger dates (if they arise):
- (a) if, the Owner has not successfully submitted Form 1 to the Council before Completion of the Development, on the date of Completion of the Development;
 - (b) if the Owner has not successfully submitted Form 2 to the Council within 6 months of personally occupying the Dwelling on the date which is 6 months and 5 working days after Occupation
 - (c) if the Owner has not personally Occupied the Dwelling for a period of 3 years from the date he first Occupied the Dwelling on the date which is 3 years and 5 working days from the date he first Occupied the Dwelling
- 1.2 For the avoidance of doubt, the Owner covenants that should they successfully claim exemption (as self-build applicants) through submitting forms 1 and 2 that they will remain liable for this payment if they do not reside at the dwelling for a minimum of 3 years from the date upon which occupation commenced.

Schedule 2 Covenants by the Council

1. AFFORDABLE HOUSING CONTRIBUTION

- 1.1 Not to use any part of the Contribution other than for the purposes for which it was paid (whether by the Council or another party).
- 1.2 In the event that the Contribution has not been spent or committed for expenditure by the Council within 5 years following the date of receipt of the Contribution the Council shall refund to the Owner any part of the Contribution which has not been spent or committed for expenditure, together with any accrued interest.
- 1.3 If Form 2 is submitted and the Owner personally occupies the dwelling for a minimum of 3 years the Council shall discharge this section 106 Agreement and comply with its obligation contained in clause 15

Annex A. Plan

Annex B. Draft Planning Permission

Annex C. Self-Build Exemption Claim Forms 1 and 2

Self Build Exemption Claim Form 1

An exemption for a self build home must be granted prior to the completion of the development. Notice must be received by the Monmouthshire County Council Planning Department prior to the date of completion of the development. The applicant will otherwise be liable for the full charge.

Form 2 of the self build exemption claim must be submitted to Monmouthshire County Council Planning Department within six months of the occupation of the development. The applicant will otherwise be liable for the full charge.

Please complete the form using block capitals and black ink and send to Monmouthshire County Council Planning Department.

Section A: Claiming Exemption – General Information

To be completed by the individual(s) claiming self build exemption.

1. Application Details :

Applicant Name:

Planning Portal Reference (if applicable):

Local authority planning application number (if allocated):

Please provide the full postal address of the application site:

If postal address/postcode not known, or original relief claim was submitted with reference to grid reference, please provide:

Easting: Northing:

Description:

Section B: Self Build Declaration

I declare that this is a "self build project" as defined below

I declare that I will occupy the premises as my sole or main residence for a period of 3 years from completion of the property

I declare that I will provide the required supporting documentation as set out in '**Self Build Exemption Claim Form 2**' within 6 months of occupation of the property and I understand failure to do this will result in the contribution becoming payable

I declare the amount of de minimis State aid received in the last three years prior to submission of this application for relief is less than 200,000 Euro

'Self Build' for these purposes is defined as all homes built or commissioned by individuals or groups of individuals for their own use, either by building the home on their own or working with builders.

'Completion' for these purposes is defined as the issuing of a compliance certificate for this development issued under either regulation 17 (completion certificates) of the Building Regulations 2010 or section 51 of the Building Act 1984 (final certificates).

Declaration

I confirm that the details given are correct.

I understand:

That my claim for exemption will lapse where **Form 2** is not submitted prior to occupation of the chargeable development to which this exemption applies.

Name – Claimant:

Date (DD/MM/YYYY):

*On receipt of this application Monmouthshire County Council Planning Department will make a decision on your claim as soon as practicable and inform the amount of affordable housing contribution relief granted in writing. You **must** then submit **Form 2** to the collecting authority within 6 months of occupation. Failure to do so will result in the affordable housing contribution charge becoming payable in full.*

Self Build Exemption Claim Form 2

To be submitted within 6 months of occupation of the self build dwelling

Please note that 'Completion' is defined as the issuing of a compliance certificate for this development issued under either regulation 17 (completion certificates) of the Building Regulations 2010 or section 51 of the Building Act 1984 (final certificates).

This form must be sent to the Monmouthshire County Council Planning Department within 6 months of the occupation of the self build dwelling. The applicant may otherwise be liable for the full affordable housing contribution.

Please complete the form using block capitals and black ink and send to Monmouthshire County Council Planning Department.

Section A: Claiming Exemption – General Information

To be completed by the individual(s) claiming self build exemption.

Application Details

Applicant

Name:

Local authority planning application number (if allocated):

Please provide the full postal address of the application site:

If postal address/postcode not known, or original relief claim was submitted with reference to grid reference, please provide:

Easting:

Northing:

Description:

Section B: Submission of Evidence

Please confirm below what evidence you are providing to support your claim for self build exemption.

1. Please enclose a copy of **all** of the following items:

(a) A compliance certificate for this development issued under either:

-regulation 17 (completion certificates) of the Building Regulations 2010 **or**

-regulation 51 of the Building Act 1984 (final certificates)

What date was the compliance certificate issued (DD/MM/YYYY)?

(b) Title deeds of the property to which this exemption relates (freehold or leasehold)

(c) Council Tax certificate

Section B: Submission of Evidence continued

2. Please enclose two further proofs of occupation of the home as sole or main residence

Please enclose a copy of **two** of the following items **showing your name and address of the property**:

Utility Bill

Bank Statement

Local electoral roll registration

3. Please also enclose a copy of **one** of the following:

(a) An approved claim from HM Revenue and Customs under 'VAT431NB: VAT refunds for DIY housebuilders'

(b) Proof of a specialist Self Build or Custom Build Warranty* for your development

(c) Proof of an approved Self Build or Custom Build Mortgage** from A bank or building society for your development

*A Self Build or Custom Build Warranty is a warranty and Certificate or Approval issued by a Warranty provider which provides a 'latent defects insurance' policy and which is accompanied by certified Stage Completion Certificates (SCC) issued to the owner/occupier of the home.

**A Self Build or Custom Build Mortgage is an approved mortgage to arrange to purchase land and/or fund the cost of erecting a home where the loan funds are paid to the owner/occupier in stages as the building works progress to completion.

Declaration

I/We confirm that the details given are correct.

Name:

Date (DD/MM/YYYY):

APPENDIX 3

HOW TO CALCULATE FINANCIAL CONTRIBUTIONS FOR AFFORDABLE HOUSING

The required Commuted Sum (CS) Rate financial contribution is calculated by using the rates below for each area of Monmouthshire and the internal floor space of the dwelling(s) in m². It should be noted that integral garages, as part of any scheme, would be counted within the internal space. The figure of 58% is the proportion that the landowner/developer would fund were the units to be delivered on site.

Formula: Financial Contribution = Internal Floor Area (m²) x CS Rate x 58%

Commuted Sum Rates

Severnside	-	£80/m ²
Monmouth	-	£100/m ²
Abergavenny	-	£120/m ²
Chepstow	-	£120/m ²
Rural	-	£120/m ²

The figure of 58% in the examples below is the amount that the landowner/developer would fund were the units to be delivered on site. The Registered Social Landlord (Housing Association) would fund the remaining 42%.

EXAMPLES OF AFFORDABLE HOUSING CONTRIBUTIONS

Example 1

Dwelling measuring 98m² in a rural area:

$$(\text{£}120/\text{m}^2 \times 98\text{m}^2) \times 58\% = \text{£}6,821$$

Example 2

Two dwellings (one at 98m² and one at 110m²) in Chepstow:

$$(98\text{m}^2 + 110\text{m}^2 = 208\text{m}^2)$$

$$(\text{£}120/\text{m}^2 \times 208\text{m}^2) \times 58\% = \text{£}14,476$$

Example 3

Three dwellings (one at 78m², one at 83m² and one at 94m²) in Monmouth:

$$(78\text{m}^2 + 83\text{m}^2 + 94\text{m}^2 = 255\text{m}^2)$$

$$(\text{£}100/\text{m}^2 \times 255\text{m}^2) \times 58\% = \text{£}14,790$$

APPENDIX 4
Checklist for Assessing Affordable Housing Requirements

A. Policy S4: Checklist for assessing affordable housing requirements in Main Towns, Rural Secondary Settlements and Severnside Settlements

A1. Establish the net site area and calculate the net capacity of the site based on an assumed achievable density of 30 dwellings per hectare.

A2. THE CAPACITY OF THE SITE MEETS THE THRESHOLD OF 5 OR MORE DWELLINGS. Affordable housing should be provided on site at a rate of 35% in Main Towns and Rural Secondary Settlements and 25% in Severnside Settlements, subject to **A.2.a)** and **A.2.b)** below.

A3. THE CAPACITY OF THE SITE DOES NOT MEET THE THRESHOLD OF 5 OR MORE DWELLINGS. A financial contribution will be required towards affordable housing in the housing market in which the site is located. (See Section B).

A.2.a) Does the development achieve 30 dwellings per hectare?

A.2.b) Does applying the proportion of affordable housing required to the total number of dwellings result in a whole number?

YES
Percentage of affordable housing required will be based on the number of dwellings proposed in the planning application.

NO (and there is not a material non-compliance with Policy DES1 i), which generally requires a density of 30 dwellings per hectare).
Percentage of affordable housing required will be based on the agreed capacity of the site rather than a theoretical capacity of 30 dwellings per hectare.

NO
The figure will be rounded to the nearest whole number (where half rounds up).

B. Policy S4: Checklist for providing a financial contribution where the affordable housing threshold is not met.

B.1. Does the capacity of the site fall below the threshold at which affordable housing is required?

i.e. 1- 4 dwellings in Main Towns, Rural Secondary Settlements and Severnside Settlements.

Subject to the exemptions listed¹: 3 or more dwellings in Main or Minor Villages, or, Conversion schemes in the Open Countryside.

YES

Prior to obtaining planning permission the applicant will need to enter into a S106 agreement (see Appendix 2 for standard agreement) to pay a financial contribution towards affordable housing in the housing market in which the site is located (**subject to B.2. below**). The required contribution will be established by using the formula 'Financial Contribution = Internal Floor Area (m2) x CIL Rate x 58%' (see Appendix 3 for further details and example calculations). The calculation can be obtained from the Council's Planning Officer. The contribution will normally be set at the equivalent of 35% of the agreed capacity of the site (25% in Severnside). The affordable housing contribution will be liable to be paid on completion and prior to occupation of each dwelling to which the payment relates.

NO

Go to Section A.

¹Exemptions

- Single Barn Conversions
- Commercial Conversions involving proposals for 1—4 dwellings
- Conversion of Listed Buildings for 1—4 dwellings.

B.2. Is the development to be carried out by a 'self-builder'?

See definition in Appendix 2.

YES

The developer will need to apply prior to the completion and occupation of the dwelling to which the payment relates for the S106 agreement to be amended to give an exemption from the affordable housing contribution.

NO

The affordable housing contribution will be liable to be paid on completion and prior to occupation of each dwelling to which the payment relates.

C. Policy S4: Checklist for assessing affordable housing requirements in Main Villages

C.1. Is the site allocated under LDP Policy SAH11 with the specific purposes of providing affordable housing?

YES. A minimum of 60% affordable housing must be provided on site.

NO. C.2. Other sites in Main Villages.

C.2. For other sites within the development boundaries of Main Villages (i.e. excluding the 60/40 allocated sites) provision of 35% affordable housing on site will be required for both new build development and conversions subject to the exemptions in Box¹.

¹Exemptions

- Single Barn Conversions
- Commercial Conversions involving proposals for 1—4 dwellings
- Conversion of Listed Buildings for 1—4 dwellings.

D. Checklist for assessing affordable housing requirements in Minor Villages



¹Exemptions

- Single Barn Conversions
- Commercial Conversions involving proposals for 1—4 dwellings
- Conversion of Listed Buildings for 1—4 dwellings.

E. Checklist for assessing affordable housing requirements in the Open Countryside

E.1. Subject to exemptions listed¹: If the proposal relates to the conversion of existing buildings or sub-division of existing dwellings is it impracticable to provide affordable housing within the scheme?



YES

A financial contribution will be required towards affordable housing in the housing market area in which the site is located, to be set at the equivalent of 35% of the agreed capacity of the site subject to the exemptions listed in Box¹.



NO

Affordable housing should be provided on site at a rate of 35% of the agreed capacity of the site subject to the exemptions listed in Box¹.

E.2. Is the proposal in the open countryside but considered to be an acceptable 'Departure' application?



YES

In accordance with the decision made by Full Council on 21 February 2019 departure applications/ unallocated sites are required to deliver 35% affordable housing and no negotiation will be entertained.

E.3. Is the proposal for a development that complies with Rural Exceptions Policy H7, i.e. in a location outside a recognised settlement where residential would not normally be allowed.



YES

Affordable housing should be provided on site at a rate of 100%.

¹Exemptions

- Single Barn Conversions
- Commercial Conversions involving proposals for 1—4 dwellings
- Conversion of Listed Buildings for 1—4 dwellings.