

**South Hams District
Council**

**Comments on Submission
Draft Affordable Housing
Development Plan
Document,
January 2008**

Submitted By:

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On:

7th March 2008

Prepared On Behalf of:

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Summary of Required Modifications:

1.0 Section 3 – The Role of the Affordable Housing Development Plan Document

1.1 Policy Context for the Affordable Housing Policies DPD

REQUIRED MODIFICATION(S):

- The first sentence of paragraph 3.6 should be altered to read:

“In order to deliver Affordable and Market Housing, PPS3 specifies that Local Development Documents should seek to meet the needs and demand for housing in their area [having taken into account the findings of a PPS3 compliant Strategic Housing Market Assessment] by:”

(the required modification is the underlined square bracketed text)

- Paragraph 3.9 should be modified to reflect the Panel’s comments in relation to the regional affordable housing targets referred to within the draft RSS, and the need for local authorities to ensure that the affordable housing targets set out within local development documents are set with reference to an SHMA.

2.0 Section 5 – Housing Need and Affordability

REQUIRED MODIFICATION(S):

- Housing need and affordability should be assessed with reference to a PPS3 compliant SHMA in addition to other local assessments. Policies AH1 to AH4 set out within the AHDPD need to be re-considered in the light of the findings of a PPS3 compliant SHMA.
- The line in paragraph 5.7 which states that ‘the Council considers the district to represent a single housing market area within the wider Plymouth sub

region' should be deleted and the remaining paragraph wording be revised to reflect that South Hams lies within the Plymouth Housing Market Area. The Council have not provided any evidential basis to support their claim that South Hams forms a distinct housing market area.

3.0 Section 6 – Development Principles & Mix of Housing

3.1 Social Rented Housing (Policy AH4: Mix, Size, Type and Tenure)

REQUIRED MODIFICATION(S):

- Paragraph 6.8 should be modified to clarify that regional guidance does not set specific targets for the provision of intermediate and social rented accommodation, and that national guidance requires that such targets are set out, where appropriate, within local development documents. Furthermore, the wording should not suggest that regional spending targets reflect the strategic tenure split target that should be set at a district level to inform affordable housing delivery from all sources.
- National guidance requires affordable housing targets to be set with reference to current and future need as assessed within an SHMA. The AHDPD targets have been arrived at without reference to an SHMA and therefore may not represent an accurate response to current and future affordable housing need. Policy AH4 and paragraph 6.8 should be amended to reflect a 'target' tenure split which has been arrived at having had consideration to a PPS3 compliant SHMA.
- Reference should also be made within paragraph 6.8 to the sentence in Policy AH4 that tenure split will be determined on a site by site basis with regard to local circumstances.
- Policy AH4 and paragraph 7.11 should be amended to reflect that the size and type of affordable housing sought will be negotiated with reference to a PPS3 compliant SHMA.

- The AHDPD Policy AH2 and AH3 targets for the delivery of market and affordable housing across the district must take into consideration the findings of a PPS3 compliant SHMA, the economics of provision, and the creation of sustainable communities. Whilst the Council state that Adams Integra have carried a viability exercise on their behalf, it is evident that the proportions of market and affordable housing sought within the AHDPD have not been arrived at having had regard to an SHMA, or to the Core Strategy Inspector's comments in relation to the wider emphasis to be placed upon housing delivery overall. The targets must be revised to reflect SHMA findings, and the impact upon overall housing delivery.

4.0 Section 7 – Affordable Housing Policies

4.1 Allocated Sites (Policy AH2)

REQUIRED MODIFICATION(S):

- The allocated site affordable housing targets referred to within paragraph 7.6 (and as set out in Policy AH2) should be deleted, and reference be made solely to the Core Strategy strategic target (based on delivery of affordable housing from all sources) with the delivery of affordable housing to be negotiated on a site by site basis.

4.9 Unallocated Sites (Policy AH2)

REQUIRED MODIFICATION(S):

- The unallocated site affordable housing thresholds and proportions set out within paragraph 7.8 and at Policy AH3 should be deleted and replaced with the national indicative threshold as set out within PPS3. In addition, the threshold should be applied to both windfall and allocated sites, and a single strategic affordable housing proportion 'target' should be applied based on delivery from 'all sources'. This is in line with the recommendations made by the Inspector to the Core Strategy, and in line with the Affordable Housing Policy CS6. At present the effect of the wording of Policy AH3 is to set

affordable housing thresholds that are not in accordance with PPS3, and do not heed the Core Strategy Inspector's concerns in respect of the frustration of overall housing delivery.

4.23 Policy AH5: Rural Exception Sites

REQUIRED MODIFICATION(S):

- The last sentence of section 2 of paragraph 7.20 (Policy AH5) containing references to the removal of permitted development rights should be deleted as, following the exclusion of low cost market housing from the definition of affordable housing contained within national guidance, it is no longer relevant.

5.0 Section 8 – Viability Issues

REQUIRED MODIFICATION(S):

- The wording of paragraph 8.2 should be altered to reflect that developers cannot always be 'expected' to ensure that all planning obligation and abnormal costs are absorbed through a reduction in land value.
- Paragraph 8.4 should be altered to reflect that developers and landowners are not 'expected' by national guidance, or even by the Housing Corporation in instances where grant funding is sought, to capitulate to the scrutiny of an independent Valuer or to take an open book approach with the Council.
- The wording of paragraph 8.5 should be amended to reflect that whilst the Council may have regard to the findings of the Adams Integra viability assessment it will not be appropriate for this to override site specific concerns in respect of a developments ability to deliver affordable housing. Particularly as the strategic target set by the Core Strategy is for the delivery of 50% affordable housing from 'all sources' and is not intended for application as a site specific requirement.

Comments on Submission Draft Affordable Housing Development Plan Document

The following report sets out representations and required modifications in relation to the submission draft Affordable Housing Development Plan Document (“AHDPD”) produced by South Hams District Council (“the Council”) in January 2008. The AHDPD has been produced by the Council to build ‘on the strategic content of the Core Strategy’¹ which was published in January 2006, underwent Examination in Public in July 2006 and was adopted by the Council in December 2006. These representations should be read in conjunction with the representations also submitted on behalf of Red Tree (2004) LLP in respect of the draft Affordable Housing Supplementary Planning Document.

1.0 Section 3 – The Role of the Affordable Housing Development Plan Document

1.1 Policy Context for the Affordable Housing Policies DPD

1.2 At paragraph 3.6 the AHDPD states that Planning Policy Statement 3 (“PPS3”) requires local authorities to set targets within local development documents in respect of the proportion, tenure, and size and type of affordable housing that will be sought to meet the areas needs and demands. The AHDPD also states that PPS3 requires local development documents to specify likely profiles of households requiring market housing. However, the paragraph does not acknowledge that PPS3 also requires that local authorities take into account the findings of a Strategic Housing Market Assessment (“SHMA”).

REQUIRED MODIFICATION(S):

- The first sentence of paragraph 3.6 should be altered to read:

“In order to deliver Affordable and Market Housing, PPS3 specifies that Local Development Documents should seek to meet the needs and demand for housing in their area [having taken into account the findings of a PPS3 compliant Strategic Housing Market Assessment] by:”

¹ AHDPD, page 8

(the required modification is the underlined square bracketed text)

- 1.3 At paragraph 3.9 the AHDPD states that the emerging Regional Spatial Strategy for the South West (“draft RSS”) requires that 30% of all housing provision across the region should be provided as affordable housing, with this increasing to 60% or higher in areas of greatest need. However, the paragraph does not reflect the comments made by the draft RSS Examination in Public Panel (and included within the Panel’s report (“Panel report”) published in December 2007) in respect of the draft RSS target which state that:

“...it will be for Strategic Housing Market Assessments, compiled by the constituent Local Authorities (and incorporating assessment of affordable housing needs) to refine the evidence base on which to establish such targets that better reflect the actual position in each Housing Market Area. The draft RSS overall target is not intended to pre-empt the outcome of such work but rather to provide a flexible “top down” framework within which more detailed LDD policies and actions can be developed from the “bottom up” in the light of local circumstances. Results of that work should eventually feed back up into sub-regional targets in a future draft RSS review, but there is no complete evidential basis which the Panel could use to formulate such targets now.”

(Panel Report, draft RSS EiP, paragraph 6.10, page 213)

Thus it is evident that the 60% or higher level of provision referred to within the draft RSS exists to retain flexibility in the level of affordable housing that local planning authorities can seek as a result of there being no complete evidence base currently available from which more specific sub-regional targets could be drawn. The Panel stressed that when setting out targets for the provision of affordable housing within local development documents, local planning authorities must do so with reference to the findings of a Strategic Housing Market Assessment.

REQUIRED MODIFICATION(S):

- **Paragraph 3.9 should be modified to reflect the Panel’s comments in relation to the regional affordable housing targets referred to within the draft RSS, and the need for local authorities to ensure that the affordable housing targets set out within local development documents are set with reference to an SHMA.**

2.0 Section 5 – Housing Need and Affordability

- 2.1 The AHDPD sets out the documents included within its housing need and affordability evidence base at paragraph 5.2. One of the documents referred to is the South Hams District Housing Market and Needs Assessment undertaken in 2006 by David Couttie Associates (“HMA”). The assessment was conducted and completed prior to the publication of the first version of the Strategic Housing Market Practice Guidance in March 2007, and the second version of the Strategic Housing Market Practice Guidance published in August 2007 (“SHMAPG2”).
- 2.2 The SHMAPG2 was published as a ‘daughter’ document to supplement ‘**Planning Policy Statement 3**’ (“PPS3”) and provides updated guidance to Local Authorities on assessment of housing need and methodology for housing market analysis. It sets out a clear set of requirements to which SHMA’s should adhere if they are to provide robust assessments upon which Local Authorities can base targets for levels of overall affordable housing provision and tenure splits. The SHMAPG2 states that:

“a strategic housing market assessment should be considered robust and credible if, as a minimum, it provides all of the core outputs and meets the requirements of all of the process criteria in figures 1.1 and 1.2”

(SHMAPG, page 9 – ‘Robust and Credible Assessments’)

- 2.3 Figures 1.1 and 1.2 (page 10 of the SHMAPG2) list the core outputs and process criteria to which an assessment is required to adhere if it is to be considered a PPS3 compliant SHMA. As the HMA was produced prior to the publication of this guidance it cannot be said to constitute a PPS3 compliant SHMA. In this regard it is of note that it is acknowledged at paragraph 1.1.4 of the HMA that it has utilised the methodology of the Good Practice Guidance 2000 (published by the DETR) when calculating affordable housing need within the overall market. It is apparent that the robustness of the HMA was not deliberated upon by the Inspector during the Examination in Public of the South Hams submission draft Core Strategy,² and it is also evident that, whilst the Inspector refers to the 2006 HMA, the submission draft Core Strategy itself was published in January 2006 prior to

² Report on the Examination into the Core Strategy Development Plan Document, 27 November 2006

the commissioning of David Couttie Associates Ltd in April 2006 to carry out a Housing Market and Needs Assessment across the Plymouth Housing Market Area.

- 2.4 Thus, it is therefore evident that the affordable housing approach taken within the adopted Core Strategy is not grounded within the findings of the HMA, or within the findings of a PPS3 compliant SHMA. It would appear that the Council have not taken the opportunity to set out affordable housing targets within the AHDPD that refer to the findings of a PPS3 compliant SHMA, and similarly the affordable housing SPD refers to the district wide HMA as opposed to an SHMA.

REQUIRED MODIFICATION(S):

- **Housing need and affordability should be assessed with reference to a PPS3 compliant SHMA in addition to other local assessments. Policies AH1 to AH4 set out within the AHDPD need to be re-considered in the light of the findings of a PPS3 compliant SHMA.**

- 2.5 The Council states at paragraph 5.7 of the AHDPD that it considers that the South Hams district represents a 'single housing market area'. It is not apparent how the Council have arrived at this conclusion however, and there is no suggestion within the HMA that South Hams represents a distinct housing market area. Indeed the HMA details that 37% of the South Hams residents in employment travel to work outside the district³ and, on the basis of analysis of migration data, the HMA concludes that:

"The Housing Market Area should in our view be assessed as the Sub-Region, including all the area within the four local authority boundaries."

(paragraph 3.3.19, page 44)

Whilst the findings of the HMA cannot be said to represent a robust SHMA⁴ it is interesting that, despite having commissioned this assessment in association with Plymouth Housing Market Partnership the Council have chosen to ignore the assessments conclusions in respect of housing market areas, particularly as the Council does not appear to provide any alternative evidence source to support their claim. Furthermore, when setting out housing

³ Table 3-2, page 28, HMA 2006

⁴ The HMA's findings in respect of the sub-regional housing market area differs to the conclusions reached within the DTZ 'Analysis of Sub-regional Housing Markets in the South West' report published in July 2004 which highlights South Hams as falling partially within the Plymouth sub-region and partially within the Torbay sub-region – paragraph 3.03, page 13.

delivery targets the draft RSS identifies South Hams as falling within the Plymouth Housing Market Area (Table 4.1, page 104).

REQUIRED MODIFICATION(S):

- **The line in paragraph 5.7 which states that ‘the Council considers the district to represent a single housing market area within the wider Plymouth sub region’ should be deleted and the remaining paragraph wording be revised to reflect that South Hams lies within the Plymouth Housing Market Area. The Council have not provided any evidential basis to support their claim that South Hams forms a distinct housing market area.**

3.0 Section 6 – Development Principles & Mix of Housing

3.1 Social Rented Housing (Policy AH4: Mix, Size, Type and Tenure)

3.2 Paragraphs 6.7 and 6.8 refer to the approach taken within Policy AH4 of the AHDPD to set a target for the provision of 60% of all affordable housing as social rented accommodation. The Council refers to the findings of the HMA and a ‘70% target’ within the Regional Housing Strategy for the South West (“RHS”) as justification for the tenure split set out within the AHDPD.

3.3 However, the HMA does not represent a PPS3 compliant SHMA⁵ and in addition to this there are numerous shortfalls in the methodology utilised within the HMA which combine to make the documents conclusions unreliable. It would appear that the Council bases its conclusions regarding tenure split upon the aspirations expressed by concealed and existing households and set out within Tables 12-4 and 12-6 of the HMA. This is set out in Table B2 (page 9) of the draft Affordable Housing Supplementary Planning Guidance (“SPD”) (produced alongside the AHDPD and also currently undergoing public consultation) which draws on the preferences expressed by existing households and the self-identified ‘needs’ of concealed households and calculates that a 60:40 tenure split in favour of social rented accommodation is required.

⁵ Local authorities are required to have regard to an SHMA when developing affordable housing policies and setting affordable housing targets and thresholds (paragraph 16, page 5, Affordable Housing Policy Statement to PPS3 ‘Delivering Affordable Housing’).

3.4 It is not evident that this reflects 'need' in a subjective sense, and thus does not necessarily reflect an accurate source on which to base a strategic policy tenure split. In addition it may be the case that the households responding to the survey do not have a comprehensive understanding of the types of intermediate accommodation that can be provided as affordable housing. The HMA data in Tables 12-4 and 12-6 refers to shared ownership and social rented dwellings only, and the concept of shared ownership is not necessarily widely understood by potentially eligible households.

3.5 Furthermore, the AHDPD comments regarding the RHS affordable housing tenure split 'target' are somewhat misleading and have not been contextualised. The RHS does consider tenure split, but it does so in relation to how the regional funding pot, and specifically the Affordable Housing Programme funding (provided via the Housing Corporation), should be distributed across the region. To this end the RHS states that:

"Given the significant need for rented accommodation it is proposed that the majority of resources will be directed to providing new social rented housing."

(paragraph 2.57, page 27 – emphasis added)

This paragraph is placed within section 'F' of the RHS which is entitled 'Using the Regional Housing Pot' – it is therefore clear that this reference to 'resources' is in relation to public funding as opposed to affordable housing delivery from all sources (such as Planning Obligations). Not only does the RHS make no specific reference to a 70:30 tenure split in favour of social rented accommodation, but where it talks about tenure split, at paragraph 2.57 it does so in the context of obtaining best value and additionality from the available regional funding pot as opposed to suggesting a strategic overall delivery target.

3.6 Paragraph 6.1.9 of the draft RSS sets out that any targets in respect of affordable housing tenure split should be set out within Local Development Documents. This approach is supported within the draft RSS Panel Report which, when considering the issue of tenure split, states that:

"...paragraph 29 of PPS3 makes clear that this level of detail is for LDDs rather than draft RSS to determine and the Panel sees no compelling reason to depart from that stance."

(paragraph 6.14, page 214)

Therefore it is clear that where it is appropriate to set separate targets for social rented and intermediate affordable housing this should not be done by regional guidance, but within Local Development Documents, and that whilst the RHS may set out targets for how regional funding should be distributed these are only an indication of how it intends to derive additionality and value for money from the available funds, and do not represent strategic targets for the delivery of affordable housing from all sources.

- 3.7 Paragraph 7.11 states that the provision of affordable dwellings on a site must reflect the local needs of the district, and Policy AH4 states that the size and type of affordable dwellings to be provided on a site will be responsive to identified local needs and contribute to attaining a 'balanced housing market'. However, the wording does not reflect that the Council must have regard to a PPS3 compliant SHMA when considering the tenure, mix, size and type of affordable housing to be delivered. Furthermore, the wording does not reflect that the delivery of affordable housing upon a site will be arrived at as a result of negotiations with the developer. PPS3 requires that local authorities work collaboratively with house builders and other stakeholders⁶ and Delivering Affordable Housing ("DAH"), which is the Affordable Housing Policy Statement which accompanies PPS3, confirms that the delivery of affordable housing must be arrived at through a process of negotiation.⁷

REQUIRED MODIFICATION(S):

- **Paragraph 6.8 should be modified to clarify that regional guidance does not set specific targets for the provision of intermediate and social rented accommodation, and that national guidance requires that such targets are set out, where appropriate, within local development documents. Furthermore, the wording should not suggest that regional spending targets reflect the strategic tenure split target that should be set at a district level to inform affordable housing delivery from all sources.**
- **National guidance requires affordable housing targets to be set with reference to current and future need as assessed within an SHMA. The AHDPD targets have been arrived at without reference to an SHMA and therefore may not represent an accurate response to current and future affordable housing need. Policy AH4 and paragraph 6.8 should be amended to reflect a 'target'**

⁶ Paragraph 11, page 7

⁷ Paragraph 10, page 3

tenure split which has been arrived at having had consideration to a PPS3 compliant SHMA.

- Reference should also be made within paragraph 6.8 to the sentence in Policy AH4 that tenure split will be determined on a site by site basis with regard to local circumstances.
- Policy AH4 and paragraph 7.11 should be amended to reflect that the size and type of affordable housing sought will be negotiated with reference to a PPS3 compliant SHMA.

3.8 Paragraph 6.12 refers to the proportions of market housing to be sought across the district as taking ‘account’ of the HMA findings. However, the HMA does not represent an SHMA and national guidance requires that in assessing the overall proportions of market and affordable housing to be delivered local authorities must consider an SHMA.⁸ Furthermore, even where an SHMA suggests a high level of need for affordable housing this must be balanced with the economics of provision and the likely impact of any such provision upon the overall levels of housing delivery and the creation of sustainable communities.⁹ When the submission draft Core Strategy was examined the Inspector stated in his report that:

“...irrespective of the local importance understandably attached to the provision of affordable housing, the wider objective in relation to housing, currently in SO2, should come first to more accurately reflect national guidance...”
(paragraph 5.7, page 8),

and went on to state:

“Most importantly, the annual house building rate in the district has halved from 505 in 1998/9 to 255 in 2004/5. In circumstances where there is already a “backlog” against the requirements of the DSP, the adoption of an affordable housing target significantly higher than anywhere else in the country will not assist the overriding objective of delivering the total levels of new housing needed in the district over the plan period.”
(paragraph 9.4, page 20)

⁸ Paragraph 22, page 9, PPS3

⁹ Paragraph 29, page 11, PPS3

In seeking higher proportions of affordable housing (via Policies AH2 and AH3) in some parts of the district than the overall strategic target specified in Policy CS6 of the Core Strategy the Council will reduce the level of market housing that will be delivered in these areas. This will have a negative effect on the overall delivery programme.

REQUIRED MODIFICATION(S):

- **The AHDPD Policy AH2 and AH3 targets for the delivery of market and affordable housing across the district must take into consideration the findings of a PPS3 compliant SHMA, the economics of provision, and the creation of sustainable communities. Whilst the Council state that Adams Integra have carried a viability exercise on their behalf, it is evident that the proportions of market and affordable housing sought within the AHDPD have not been arrived at having had regard to an SHMA, or to the Core Strategy Inspector's comments in relation to the wider emphasis to be placed upon housing delivery overall. The targets must be revised to reflect SHMA findings, and the impact upon overall housing delivery.**

4.0 Section 7 – Affordable Housing Policies

4.1 Allocated Sites (Policy AH2)

4.2 In paragraphs 7.4 to 7.7 of the AHDPD the Council sets out its approach to the proportion targets it will seek from allocated sites. At paragraph 7.4 the Council states that it will require high percentages of affordable housing from these sites to assist with addressing the areas affordable housing need and identifies that the 'context' for this is set in the Core Strategy Policy CS6. The Core Strategy Policy CS6 sets out that:

“New residential development should provide affordable housing consistent with the overall strategic target of 50% from all sources and having appropriate regard to the:

- identified local need;*
- nature and scale of the location and the development proposed;*
- characteristics of the site; and*

- economics of provision.”

(Policy CS6, South Hams Adopted Core Strategy)

It is therefore evident that the 50% target is a strategic one, and not a site specific target. The term ‘all sources’ indicates that the affordable housing target should not be achieved solely through developer contributions. Indeed, ‘Delivering Affordable Housing’ (“DAH”), the Affordable Housing Policy Statement (which should be read in conjunction with PPS3), encourages local authorities to improve affordable housing delivery through the creative use of their own resources,¹⁰ and states that developers cannot be expected to meet the ‘whole cost of the shortfall’ of affordable housing.¹¹ Circular 5/05 ‘Planning Obligations’ requires that developer contributions are ‘fairly and reasonably related’ to the proposed development and that they are ‘reasonable in all other respects’.

4.3 In the submission draft Core Strategy the Council sought to set out its affordable housing targets within Policy CS3 ‘Housing Provision and Affordable Housing Targets’. Policy CS3 was provided in a table format which divided allocated sites between those falling within the Plymouth Urban Area (“PUA”), and those falling outside the PUA (including those within ‘Area Centres’, ‘Local Centres’ and ‘Villages’). Those sites within the PUA included targets to provide up to 50% affordable housing, and the sites falling outside the PUA were ascribed with affordable housing targets of between 64% and 66%. The Inspector who examined the submission draft Core Strategy made the following observations within his report regarding the Councils approach to affordable housing:

“...I have serious doubts about the soundness of the overall approach put forward in the CS. This is particularly in terms of viability and practicality, in circumstances where the spatial planning strategy can only, at best, deliver partial solutions to the local manifestations of a widespread national affordable housing issue.”

(paragraph 9.3, page 20)

The Inspector’s concerns related not only to how the Council sought to set out various crucial elements of affordable housing policy (such as site size thresholds) within non-statutory or development plan guidance, but also regarding the ‘two-thirds’ level of affordable housing provision being sought by the Council from sites outside the PUA. The Inspector stated that:

¹⁰ Paragraph 11, page 3

¹¹ Paragraph 95, page 23

“In my judgement, an unrealistic percentage figure would undermine the credibility of including a target in the plan at all and this one already appears to be deterring otherwise suitable sites from coming forward. I therefore take seriously the concerns that this approach would so fetter the working of the local housing market to the extent that new housing schemes, and therefore affordable housing provision, would not be economically viable to develop in many cases, especially on smaller sites in villages. If the target is simply not being attained or delivered, it will be discredited within a short time as unworkable. The strong evidence of the scale of local need (and the one or two examples of sites that have delivered two thirds affordable dwellings or higher, albeit with the provision of public subsidy) does not alter this conclusion.”

(paragraph 9.16, pages 22 and 23)

It is apparent that the Inspector did not find the level of provision of affordable housing being sought by the Council from specific sites to be realistic, or in the interests of housing delivery overall.

- 4.4 During the examination of the Core Strategy the Council provided viability evidence in respect of the affordable housing targets they had set. Whilst the Inspector did not comment on the soundness of that report he did state that

“As with any such study, the methodology involved a number of assumptions and a small change in any of those variables could have a comparatively larger effect on the outcome. I therefore conclude that it would be unreliable to accept the specific findings of this study alone to justify two thirds as a realistic and reasonable target for affordable housing on all sites outside the PPUA.”

(paragraph 9.18, page 23)

This suggests that the Inspector felt that the level of affordable housing provision that could viably be sought from a site would have to be considered by the Council on a site by site basis, and that in any event, to expect a level of provision in excess of the 50% being sought upon the PUA schemes was not a realistic target and would be likely to inhibit overall housing delivery in a district where delivery targets were not being met.

- 4.5 The Inspector also stated that the difference in the targets ascribed to the sites within the PUA and those outside the PUA were inconsistent and unexplained by the Council¹² and resulted in:

“...a clear and obvious risk that necessary development in the district outside the PPUA will continue to be deterred from coming forward by such a high target, whilst that in the PPUA will be treated relatively more favourably and thereby encouraged. In my judgement, this is unreasonable as well as impractical and could create an incentive for development activity to focus only on the PPUA over the plan period, rather than also in the ACs and LCs as the CS intends and the spatial strategy requires. Accordingly, I conclude that a consistent strategic target for affordable housing should be adopted across the district in the CS”

(paragraph 11.18, page 33)

- 4.6 Given the background of the submission draft Core Strategy examination as set out above it is therefore of concern that the Council are seeking to impose very similar targets within this AHDPD to those that were advised against by the Core Strategy Inspector. The Council have set out a 50% affordable housing target for the PUA, a 55% target in Area and Local Centres, and a 60% target within ‘rural areas’. Through this AHDPD the Council appear to be seeking to implement policies that the Inspector found to be unsound within the submission draft Core Strategy.
- 4.7 The Council seek to justify this on the basis of research carried out their behalf by Adams Integra and published in November 2007. Adams Integra set out the findings of their viability assessment within an ‘Affordable Housing Viability Study’. However, whilst this study may provide a useful guide to which the Council can refer, it must be considered within the context of the assumptions upon which it has been based. This report is considered in more detail at section 5 of these representations.
- 4.8 When considering the targets within the AHSPD however, it must be noted that the Inspector to the Core Strategy, who had given consideration to the HMA, among other evidence sources,¹³ still found the affordable housing targets proposed for areas outside the PUA unrealistic regardless of the assessed level of affordable housing need. Furthermore, the Inspector was clear that any viability assessment is subject to significant

¹² Paragraph 11.17, page 33

¹³ Paragraph 9.2 Inspector’s Report

fluctuation upon the alteration of any of the assumptions, and it therefore follows that the actual levels of affordable housing provision are best negotiated on a site by site basis within the context of a strategic target.¹⁴ The Council's viability assessment (prior to the Adams Integra Study) was not considered by the Inspector adequate evidence that each and every site would be capable of delivering the levels sought by the Council. It is of concern that the Council may seek to apply these 'targets' rigidly contrary to the Inspector's statement that provision should be negotiated in the context of the Core Strategy 50% strategic target.

REQUIRED MODIFICATION(S):

- **The allocated site affordable housing targets referred to within paragraph 7.6 (and as set out in Policy AH2) should be deleted, and reference be made solely to the Core Strategy strategic target (based on delivery of affordable housing from all sources) with the delivery of affordable housing to be negotiated on a site by site basis.**

4.9 Unallocated Sites (Policy AH3)

4.10 Paragraph 7.8 of the AHDPD sets out the Council's approach to affordable housing delivery upon unallocated sites. The Council seems to be introducing via the AHDPD a four tier threshold system in respect of unallocated sites which effectively reduces the threshold for affordable housing delivery to one dwelling. Therefore the Council are seeking developer contributions to the delivery of affordable housing on every unallocated site that becomes available.

4.11 This threshold is significantly lower than that set out within national guidance; paragraph 29 of PPS3 sets an national indicative minimum site size threshold of 15 dwellings. Whilst PPS3 states that local authorities can set different proportions of affordable housing for a series of site size thresholds, it also requires that any such thresholds must be viable and practicable, and that the impact of any such thresholds upon overall housing delivery and the creation of sustainable communities must be taken into consideration.¹⁵ In addition to

¹⁴ Paragraph 9.18 Inspector's Report

¹⁵ Paragraph 29, page 11

this it is evident that thresholds and proportions of affordable housing must take into consideration the findings of a PPS3 compliant SHMA.¹⁶

- 4.12 The Inspector to the Core Strategy stated in his report that the approach taken by the Council to include the affordable housing thresholds within a separate document to the Core Strategy resulted in a:

“...fundamental lack of coherence and clarity that has been created by splitting the various policy considerations within and between various documents which have varying timescales and statutory weight. Moreover, as submitted, the CS contains no definition of affordable housing as such and does not refer to the necessary involvement of other parties in terms of implementation.”

(paragraph 9.6, page 21)

The Inspector went on to state:

“In all of the above circumstances, I conclude that it would be most appropriate to have a consistent strategic percentage target figure applicable to all new housing sites above a certain size threshold or thresholds, whether allocated or windfalls, across the district”

(paragraph 9.23)

- 4.13 Despite the Inspector’s concerns about the delegation of affordable housing thresholds to a ‘SPG’ or ‘DPD’¹⁷ the Council chose to do just this. The Inspector was also concerned that the thresholds were lower than national guidance (Circular 6/98 as was applicable at that time) and had not been independently tested.¹⁸

- 4.14 When setting targets for the provision of affordable housing the Council are required to have regard to national guidance contained within Circular 5/05 ‘Planning Obligations’. Circular 5/05 states that planning obligations are:

“...intended to make acceptable development which would otherwise be unacceptable in planning terms.”

¹⁶ DAH, paragraph 16, page 5

¹⁷ Paragraph 9.8, page 21

¹⁸ Paragraph 9.10, page 21

(paragraph B3, page 9)

Circular 5/05 also requires that obligations are fair and reasonable in relation to the proposed development and crucially that:

"...planning obligations should never be used purely as a means of securing for the local community a share in the profits of development, i.e. as a means of securing a "betterment levy""

(paragraph B7, page 10)

In seeking to set affordable housing delivery thresholds as low as a single dwelling the Council is effectively seeking to secure a 'betterment levy' from such developments.

- 4.15 It is not the intention of national guidance that contributions of affordable housing be sought from single dwelling sites or sites that are deemed to fall below appropriate thresholds, hence the indicative threshold being set by PPS3 at 15 dwellings. In addition to this PPS3 is clear that the starting point for the provision of affordable housing is that this is to be provided on site¹⁹ and is to contribute towards the creation of sustainable communities.²⁰
- 4.16 PPS3 sets a two stage test in respect of developer contributions at paragraph 29, page 11. Firstly the presumption in PPS3 is that any affordable housing provision will be made on site. Secondly, where the off site provision or a financial contributions in lieu of any provision that would have been made on site is sought, PPS3 requires that this is 'robustly justified'.²¹ PPS3 then sets out how the value of any such off site provision / financial contributions can be calculated; they are to be of a value that is broadly equivalent to the provision that would have been made on site.
- 4.17 The Council starts the series of affordable housing thresholds at a single dwelling and justifies these thresholds on the basis of the Adams Integra viability study even though the modelling in that study was based upon a tenure neutral approach as opposed to the Council's 60:40 in favour of social rented approach (please refer to section 5 of these representations). The Council's threshold approach does not seem to have been considered within the context of national policy requirements (the Adams Integra report

¹⁹ Paragraph 29, page 11

²⁰ Paragraph 29, page 11

²¹ Paragraph 29, page 11

acknowledges that it is beyond the remit of its assessment to comment on planning policy²²). It is not possible to make an on site contribution to affordable housing provision on a single dwelling scheme (unless the scheme is a 100% affordable housing scheme). To this end it would be equally impossible to make an off-site or financial contribution that was broadly equivalent to that which would have been provided on site. Therefore the Council's single dwelling threshold cannot operate within the scope of PPS3, and is flawed.

- 4.18 The second in the series of affordable housing thresholds set by the Council is also not in accordance with the PPS3 requirements to deliver affordable housing on the contributing site unless there is a robust justification not to do so. The Council seem to have set the series of thresholds from a purely financial perspective of what they feel represents an economically viable level of provision. However, in respect of sites containing 2 to 5 dwellings the Council appear to suggest on one hand that the site can financially contribute 20% affordable housing, and yet on the other hand, through seeking that this is delivered off site or as a financial contribution, suggest that it is not practicable to deliver affordable housing on site at this threshold. This would align with the fears expressed by the Core Strategy Inspector in relation to affordable housing targets which would fetter the ability of the Council to meet its overall housing delivery targets. Therefore it is apparent that this threshold is also flawed as it does not meet the requirements of PPS3.
- 4.19 The third in the series of affordable housing thresholds set by the Council suggests that the Council believe that on sites of 6 to 14 dwellings 35% affordable housing can be delivered on site. However, the Council have not identified within the wording that this represents a 'target' for affordable housing provision at these thresholds, and therefore it is possible that the Council will seek to prescribe this level of housing on all windfall sites at this threshold regardless of site specific circumstances and economics. This would be in direct contradiction to the Core Strategy Policy CS6 which requires the Council to have appropriate regard to such issues. It is also of note that in his report of November 2006 the Inspector to the Core Strategy made the following statement in respect of the thresholds set out within the Council's adopted Affordable Housing Supplementary Planning Guidance:

"There is clear evidence from examination participants and the reduced level of new housing completions in the district since the Council's introduction of the current

²² Adams Integra Affordable Housing Viability Study, paragraph 25, pages vi

SPG that the threshold and targets therein are acting as a material deterrent to the emergence of suitable new housing sites in the district.”

(paragraph 9.13, page 22)

The thresholds in the adopted SPG are 15 dwellings / 0.5 hectares in settlements with a population of 3000 plus and 2 dwellings / 0.1 hectares in settlements of less than 3000 in population. It is not apparent that the Council have demonstrated that it would be practicable to reduce these thresholds in respect of windfall sites (in both rural and urban areas) to the levels set out within the AHDPD. Furthermore the Adams Integra report identifies that the Council ceased to operate the previous SPG targets and utilised instead the PPS3 indicative 15 dwelling threshold across the district.²³ This would suggest that the rural 2 dwelling threshold was proving unviable and impracticable.

4.20 Indeed, the available evidence suggests that the overall level of delivery of housing has not improved since the Inspector to the Core Strategy wrote his report. The South Hams Annual Monitoring Report (“AMR”) covering the period April 2006 to March 2007 details that the level of housing delivery in 2006/07 was lower than the previous three years and the data shows a year on year decline ever since 2003/04.²⁴ The AMR identifies that the Devon Structure Plan requires 8,350 dwellings to be delivered in South Hams for the period 2001 to 2016. This equates to 557 dwellings annually compared to the actual 222 dwellings delivered within South Hams in 2006/07.

4.21 The Inspector considered the possibility of delays to the delivery of housing by Sherford in his report and concluded that such delays had the potential to have a significant negative impact upon the delivery of housing to meet the Devon Structure Plan and draft RSS targets. He stated that:

“It is therefore essential that the CS considers the implications for the spatial strategy of any delivery failure at Sherford and an appropriate response thereto if the document is to be sound and its overall aims and objectives achieved.”

(paragraph 11.15, page 33)

Graph 1 at page 15 of the AMR demonstrates the significant increase in housing delivery that the Council will need to achieve in order to meet the Devon Structure Plan targets.

²³ Adams Integra Affordable Housing Viability Study, paragraph 2.1.3, page 4

²⁴ Table 2, page 14

The draft RSS sets a target for the delivery of an annual average of 550 dwellings in South Hams (excluding Dartmoor National Park),²⁵ and the Panel report regarding the draft RSS advises that this should be increased to 590 dwellings.²⁶ Clearly the Council need to take care that any revised affordable housing thresholds do not continue to frustrate the delivery of housing overall as this will ultimately result in lower levels of affordable housing being delivered as a result of developer contributions.

4.22 Furthermore, the Council have decided to set a threshold that is below the indicative threshold within national guidance despite not having been able to consider the findings of a PPS3 compliant SHMA.

REQUIRED MODIFICATION(S):

- **The unallocated site affordable housing thresholds and proportions set out within paragraph 7.8 and at Policy AH3 should be deleted and replaced with the national indicative threshold as set out within PPS3. In addition, the threshold should be applied to both windfall and allocated sites, and a single strategic affordable housing proportion ‘target’ should be applied based on delivery from ‘all sources’. This is in line with the recommendations made by the Inspector to the Core Strategy, and in line with the Affordable Housing Policy CS6. At present the effect of the wording of Policy AH3 is to set affordable housing thresholds that are not in accordance with PPS3, and do not heed the Core Strategy Inspector’s concerns in respect of the frustration of overall housing delivery.**

4.23 Policy AH5: Rural Exception Sites

4.24 Section 2 of Policy AH5 (paragraph 7.20) requires that planning conditions or obligations ensure that affordable housing on rural exception sites will remain available to meet local needs in perpetuity; this aligns with national guidance. However, this paragraph then goes on to state that the Council want to remove ‘permitted development rights’ enabling them to exercise control over ‘enlargements’ or ‘alterations’. It is not apparent why the Council feel that this is necessary, and it would seem to be a somewhat historic requirement left over from a time when low cost market housing was included within the national guidance

²⁵ Page 104

²⁶ Page C80

definition of affordable housing. Low cost market housing was considered to be affordable by virtue of the fact that it provided smaller properties (i.e. a smaller floor area resulted in a lower purchase price).

4.25 Thus, in this instance it is apparent that to ensure that the low cost market housing remained 'affordable' it was necessary to ensure that it remained the same size. Therefore on rural exception sites Council's would possibly seek to remove permitted development rights. It is not evident that this requirement is still relevant now low cost market housing has been excluded from the definition of affordable housing and more sophisticated methods of delivering intermediate affordable housing are utilised which rely on mechanisms other than their size to result in them being affordable.

REQUIRED MODIFICATION(S):

- **The last sentence of section 2 of paragraph 7.20 (Policy AH5) containing references to the removal of permitted development rights should be deleted as, following the exclusion of low cost market housing from the definition of affordable housing contained within national guidance, it is no longer relevant.**

5.0 Section 8 – Viability Issues

5.1 Paragraph 8.2 of the AHDPD states that the developer is 'expected' take into account the costs of planning obligations and abnormal costs prior to negotiating the sale or purchase of land or an option. However, it will not always be possible for a developer to have taken all such costs into account prior to the purchase of land or an option. The wording used by the Council to 'expect' such costs to have been accounted for by way of a reduction to the land value does not reflect reality or have any basis in national guidance. Should the Council seek to impose this rigidly it could further frustrate the already low levels of overall housing delivery.

5.2 The Council also states at paragraph 8.4 that the Council or an 'independent Valuer' will assess the development viability and that they will require there to be an 'open book approach' between developer, landowner and the Council. Independent valuation on a site

by site basis is not a requirement of national guidance,²⁷ and neither is it a requirement of national guidance that developers engage in 'open book' viability assessments. Certainly to require a landowner, who is not likely to be directly involved with the provision of affordable housing, to partake in an open book approach could serve to restrict the availability of developable land. Furthermore, even where economic appraisals are required by the Housing Corporation to demonstrate that grant funding will not be used to inflate land prices, the Housing Corporation has provided a viability tool for this purpose into which user assumptions can be entered. The Housing Corporation does not require an 'open book' approach and neither should the Council.

- 5.3 It is of concern that although in paragraph 8.5 the Council states that a reduction in the level of affordable housing will be considered where it is shown that the viability of the development is critically affected, they then appear to have already reached the conclusion (as a result of their own viability assessment carried out by Adams Integra and published in November 2007) that the levels and thresholds at which affordable housing will be sought are viable and deliverable. This suggests that the Council may take an inflexible approach to developer negotiations and refer to their own 'broad brush' viability assessment to justify their requirements rather than have regard to site specific factors that will influence the viability and practicability of affordable housing delivery.
- 5.4 Adams Integra set out the findings of their viability assessment within an 'Affordable Housing Viability Study'. However, whilst this study may provide a useful guide to which the Council can refer, it must be considered within the context of why it has been commissioned and the assumptions upon which it has been based.
- 5.5 The report identifies that the Council commissioned Adams Integra to carry out the report on the basis that if the Core Strategy strategic 50% affordable housing target is to be met then some sites will have to deliver in excess of 50%.²⁸ The Adams Integra report therefore makes recommendations about how thresholds of affordable housing may be reduced and proportions increased.²⁹
- 5.6 However, it is evident that the report does not give due consideration to the delivery of affordable housing from sources other than developer contribution, and nor does it consider

²⁷ Paragraph 29, page 11 of PPS3 sets out that local authorities must undertake an informed economic assessment to ensure the viability of any district wide thresholds and proportions proposed.

²⁸ Adams Integra Affordable Housing Viability Study, paragraph 8, page iii

²⁹ Adams Integra Affordable Housing Viability Study, paragraph 9, page iii

the level of housing that will be deliverable within the next five years, or the broad continuous level of delivery that is likely to be achieved over the next 15 years. The study therefore cannot establish how an increased level of affordable housing delivery of over and above the 50% strategic target will impact upon the level of housing being delivered in the area overall. It is identified within PPS3 that it is one of the Government's ambitions to improve affordability and supply across the housing market;³⁰ if the delivery of market housing is marginalised as a result of the prioritisation of affordable housing delivery the supply of market housing will not meet demand and thus affordability issues will increase. It is possible that the low levels of market housing that have been delivered across South Hams to date have resulted in the affordability issues that the Council say now exist. To expect the whole of this shortfall to be met through developer contribution is contrary to national guidance.³¹

5.7 The report does not consider whether delivery of affordable housing from all sources, including as a result of the Council's 'creative use of their own resources', may require lower levels of affordable housing being sought from some sites. In this respect the report is blinkered and automatically commences on the assumption (the Council's assumption) that in excess of the strategic target should be sought by the reduction of thresholds across the district and the increase of proportion in Area / Local Centres and in rural areas. Furthermore, the report does not reach its conclusions regarding the different levels of affordable housing it suggests are to be delivered in different areas of South Hams having considered the findings of an SHMA.

5.8 This is unsurprising as the research has been commissioned to explore how increased levels of affordable housing delivery can be achieved through developer contributions, as opposed to considering delivery from all sources, the housing trajectory, or the impact of delivering reduced numbers of market housing in favour of increased affordable housing. As a result the report is not an assessment which has considered SHMA evidence or of what a developer can 'reasonably' be expected to deliver (as required by national guidance³²), but an assessment which treats the delivery of affordable housing as a form of taxation which will enable the local community to secure a share in the profits of development (contrary to national guidance³³). Indeed, the authors of the report

³⁰ Paragraph 33, page 12

³¹ DAH, Paragraph 95, page 23

³² PPS3, paragraph 29, page 10

³³ Circular 5/05, paragraph B7, page 10

acknowledge that it is not within the reports remit to comment upon the compliance of the recommended approach with planning policy.³⁴

- 5.9 In addition to this the report is based on numerous assumptions. The authors acknowledge that their calculations have been carried out on a tenure neutral basis, i.e. a 50:50 tenure split between intermediate and social rented accommodation, and that if the Council will seek an increased level of social rented accommodation (which they have) then grant may be required to support such tenure splits where the levels and thresholds of affordable housing are sought at the levels recommended in the report.³⁵
- 5.10 The report identifies that 'at least 15%' developer profit would be the minimum level of profit that a developer would require to pursue a site and that some developers seek higher percentages such as 30%. Despite having identified that the level of profit sought will depend upon the risks associated with a development and developer aspirations the authors choose to use the 15% figure within their modelling stating that this represents a reasonable starting position when the Council consider appraisals. However, the report provides no evidential justification for this approach in terms of whether this is a realistic level of developer profit, or a level that in reality is likely to fetter housing delivery should the Council seek to apply it rigidly in any assessment of site viability.
- 5.11 The build costs assumed in the report are acknowledged by the author's to represent an indicative base level only³⁶ and where the transfer prices proposed by the report on the basis of these build costs are to be included in any supplementary or development plan documents then these should be used as a guide only and not be applied in a fixed or prescriptive manner.³⁷
- 5.12 The report identifies that the Council requested Adams Integra to establish a 'benchmark development land value' to assist with the Council's free serviced land approach. It is therefore clear that this would not be intended to be applied in a prescriptive manner, but for guidance only.
- 5.13 Adams Integra make it plain throughout the report that it is based upon notional site scenarios, and various indicative assumptions. It is emphasised within the report that it is

³⁴ Adams Integra Affordable Housing Viability Study, paragraph 25, page vi

³⁵ Adams Integra Affordable Housing Viability Study, paragraph 35, pages vii and viii

³⁶ Adams Integra Affordable Housing Viability Study, paragraph 2.8.3, page 18

³⁷ Adams Integra Affordable Housing Viability Study, paragraph 2.7.8 and Figure 3, page 16

not appropriate to apply it on a site specific basis, but rather it has been intended to provide the Council with a broad viability overview.³⁸ As has been identified at paragraph 4.4 of these representations the Inspector to the Core Strategy made specific comments in respect of a previous viability assessment carried out on behalf of the Council and warned that the findings of such assessments can be subject to wide variation depending upon the assumptions that are included.

5.14 Additionally, given that the Core Strategy Policy CS6 sets out a 'strategic target' for the provision of 50% affordable housing from 'all sources' the Council must be mindful that this target does not reflect a level of provision that is to be required on a site by site basis or that the viability report includes an assessment of what proportion of affordable housing need can 'reasonably' be secured through developer contributions in conjunction with provision through the Council's own resources.

REQUIRED MODIFICATION(S):

- **The wording of paragraph 8.2 should be altered to reflect that developers cannot always be 'expected' to ensure that all planning obligation and abnormal costs are absorbed through a reduction in land value.**
- **Paragraph 8.4 should be altered to reflect that developers and landowners are not 'expected' by national guidance, or even by the Housing Corporation in instances where grant funding is sought, to capitulate to the scrutiny of an independent Valuer or to take an open book approach with the Council.**
- **The wording of paragraph 8.5 should be amended to reflect that whilst the Council may have regard to the findings of the Adams Integra viability assessment it will not be appropriate for this to override site specific concerns in respect of a developments ability to deliver affordable housing. Particularly as the strategic target set by the Core Strategy is for the delivery of 50% affordable housing from 'all sources' and is not intended for application as a site specific requirement.**

³⁸ Adams Integra Affordable Housing Viability Study, paragraphs 31, 2.2.11, and 5.1.10