

**South Hams District
Council**

**Statement in Response to
Issues for Examination in
Relation to the Draft
Affordable Housing
Development Plan
Document,
January 2008**

Submitted By:

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On:

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1.0 Matter 1 – General Provision (Policy AH1)

1.1 Issue 1:

“Does the DPD make adequate provision for development viability?”

1.1.1 It is not apparent that the DPD makes adequate provision for development viability. It appears that the affordable housing targets and thresholds included in the submission draft Affordable Housing DPD (“draft DPD”) are based on a development viability study carried out on their behalf by Adams Integra.

1.1.2 However the report has various shortcomings including: the assumptions used; it’s failure to consider the delivery of affordable housing from all sources, and it’s failure to consider the levels of affordable housing delivery that have taken place to date, and the levels of affordable housing delivery that are likely to take place (based on an assessment of deliverable sites) in the future.

1.1.3 These issues are addressed in detail in paragraphs 5.6 to 5.14 of the formal representations to the draft DPD submitted by Pioneer Property Services Ltd on behalf of Red Tree (2004) LLP (“formal representations”). However, it is important to note that, among other things, the Adams Integra study does not consider:

- a) the delivery of affordable housing in a 60:40 tenure split in favour of social rent (as proposed by the Council), and,
- b) the impact of requiring all affordable housing contributions on a site being ‘front loaded’ and made available for occupation prior to the completion of 50% of all market dwellings on the same site (as proposed by the Council within the draft Affordable Housing Supplementary Planning Guidance).

Both of these issues have a significant and important impact upon development viability. That these factors have not been taken into consideration indicates that the study cannot be considered to represent a reliable evidence base which justifies the affordable housing targets being proposed by the Council within the draft DPD.

1.1.4 In addition to the issues raised above the Council do not identify within the draft DPD, or the draft SPD how they will monitor the development viability of their proposed affordable housing proportions and targets. This is of concern given that comments within the Adams Integra viability study identify that their study represents only a 'snapshot in time' and that assumptions will need to be monitored and updated (see paragraphs 5.1.15 to 5.1.21 of the Adams Integra viability study). Without such mechanisms in place it is possible that the proposed affordable housing targets could become unviable due to changing circumstances and yet remain untested / unadjusted, and this may then result in a reduction of the overall level of housing being delivered.

1.1.5 The approach taken by the Council is of particular concern in the current economic climate, where the delivery of all new housing is in great jeopardy. Affordable housing targets based on an uninformed assessment of viability are likely to result in an even greater depression of the overall housing market across South Hams.

1.2 Issue 2:

“Would the DPD hinder the delivery of the overall supply of housing?”

1.2.1 The Council have not adequately demonstrated that the approach taken within the draft DPD will not hinder overall housing delivery.

1.2.2 As stated above in respect of Issue 1, the affordable housing targets and thresholds included in the draft DPD are based on a development viability study carried out on their behalf by Adams Integra. Due to the various shortcomings of this report, and if the affordable housing thresholds and proportions set out within the draft DPD are applied inflexibly (and instead of the overall strategic target provided within the Core Strategy) then this is very likely to hinder the delivery of overall housing supply, particularly in the current uncertain economic climate. See paragraph 5.6 of the formal representations.

1.2.3 The Inspector to the South Hams Core Strategy expressed concerns over the impact of seeking high proportions of affordable housing upon overall levels of housing delivery (see paragraph 3.8 of the formal representations). The Inspector was particularly concerned by the variable targets proposed in the submission draft Core Strategy (published in January 2006 and independently examined in July 2006), and the undue effect that these were likely

to have on the operation of the local housing market and the delivery of housing overall (see paragraphs 4.3 to 4.5 and 4.20 to 4.21 of the formal representations). The Inspector required that the reference to variable targets be deleted and be replaced with policy wording which set out a strategic overall target of 50% affordable housing from all sources¹ (hence the wording of Policy CS6 in the adopted Core Strategy published in December 2006). It would appear that the Council are seeking to implement a similar approach in the draft DPD (through Policies AH2 and AH3) to that taken within the submission draft Core Strategy despite the Inspector's comments and modifications.

1.2.4 Whilst 'Matter 1' refers to Policy AH1, the threshold implied within Policy AH1 is refined within Policies AH2 and AH3 and thus all three policies are inexorably intertwined. The Core Strategy Inspector's concerns are applicable to the issues represented by all of these policies.

1.3 Issue 3:

“Does the DPD make allowance for affordable housing delivered since 2002 and affordable housing provided as part of the Sherford New Community Development?”

1.3.1 The draft DPD bases its affordable housing thresholds and targets on advice set out within the Adams Integra viability assessment. This assessment does not consider the number of affordable dwellings delivered to date, or the number of affordable dwellings provided as part of the Sherford New Community Development. Neither does it consider future levels of affordable housing delivery. Indeed, the Core Strategy Inspector concluded that previous similar threshold and proportion approaches taken by the Council had already apparently deterred overall housing delivery levels and it is clear that this will impact upon the ability to deliver affordable housing as a result of developer contributions. (See paragraph 4.19 of the formal representations in which this is considered in more detail.)

1.4 Issue 4:

“Does the DPD need amending in the light of the Panel's report into the RSS?”

1.4.1 Paragraph 3.9 of the draft DPD needs amending in the light of the Panel's report into the RSS. In particular, paragraph 3.9 of the draft DPD currently states that the emerging

¹ Paragraph 13.10, page 38, South Hams Core Strategy Inspector's Report

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, this fails to take into account the draft RSS Panel’s comments which advise that more refined targets will need to be set in response to Strategic Housing Market Assessments (“SHMA”) compiled by local authorities. The draft RSS ‘targets’ provide a broad framework only. See paragraph 1.3 of the formal representations in which this is considered in more detail.

1.4.2 Whilst the Panel report acknowledged that to achieve the overall regional affordable housing target of 35% may require increased capture of developer contributions through an amendment of site size thresholds (paragraph 6.9), it did not suggest any specific alterations, and ultimately has regard to the overarching requirements of national guidance. The affordable housing threshold set out within Policy AH1 should be amended to reflect the findings of a PPS3 compliant SHMA (as stated by the draft RSS Panel), and to acknowledge the Panel’s conclusion that some of this target will have to be met through provision on fully publicly funded sites (paragraph 6.9). The Panel acknowledges that the overall target will not provide a ‘quick fix’, but in paragraph 9.30 the Panel comments on affordable housing thresholds stating:

“Arbitrarily altering an affordable housing threshold, for example, could make provision less economic and thus reduce supply rather than increase it.”

The affordable housing threshold set out in Policy AH1 is not based on an informed financial assessment which considers affordable housing delivery from all possible sources, including that to be delivered on fully publicly funded sites and that which will be delivered during the course of the draft RSS period. Neither has there been any informed assessment of whether the affordable housing threshold is practicable or not. To this extent it would appear that the Council have arbitrarily set the affordable housing site size threshold contrary to the draft RSS Panel report, and contrary to the requirements set out within PPS3 at paragraph 29.

1.5 Issue 5:

“Should the DPD recognise the District as forming part of a wider Housing Market Area?”

- 1.5.1 The draft DPD should recognise the District as forming part of a wider Housing Market Area. The Council states at paragraph 5.7 of the draft DPD 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, and there is no suggestion within the HMA that South Hams represents a distinct housing market area. Please refer to paragraph 2.5 of the formal representations in which this is considered in more detail.
- 1.5.2 In the absence of SHMA evidence to the contrary the draft DPD should align itself with the draft RSS approach, which identifies the South Hams local authority area as falling within the Plymouth housing market. It is clear, given its location and other evidence referred to within paragraph 2.3.13 of the Council's own Housing Needs and Market Assessment ("HNMA 2006"), that South Hams will have close associations with the Plymouth City area. It is therefore not clear how the Council can accurately have arrived at a conclusion in respect of appropriate affordable housing thresholds and proportions if these conclusions have been grounded in an approach that considers South Hams to represent a single housing market area. It is noted, in this respect, that no other local authority area within the Plymouth HMA (and Plymouth City in particular) has a zero affordable housing site size threshold policy (either adopted or emerging) or is seeking proportions in excess of 50% affordable housing. The Council have not demonstrated why South Hams should be considered to be distinct from the other Plymouth HMA local authorities.
- 1.6 Issue 6:**
"Does Policy AH1 need clarification in respect of mixed-use development?"
- 1.6.1 Policy AH1 requires clarification in respect of the reference to mixed use development. The first observation regarding the use of this term is that it does not align with the Core Strategy which refers only to 'residential development' in Policy CS6.
- 1.6.2 It is not clear whether the wording in Policy AH1 shows an intention by the Council to seek affordable housing contributions from mixed use developments which exclude residential development, but include only commercial employment and leisure uses, in addition to sites containing a residential element. However, there is no basis in national guidance for seeking affordable housing contributions from non residential developments. When

referring to the range of circumstances in which affordable housing will be required PPS3 sets a national indicative minimum site size threshold of 15 dwellings and requires off-site / commuted sum contributions to be broadly equivalent to that which would have been provided on site (see paragraph 29 of PPS3). Clearly this approach excludes the possibility of obtaining affordable housing contributions from non residential mixed use developments, and it would therefore be contrary to national guidance were the Council to seek to impose such requirements.

- 1.6.3 It is therefore presumed that the Council are referring to a mixed use development that contains a residential element. However, the terminology is further confused by the Council's reference to a sites affordable housing requirement being based 'in every case' on an assessment of the sites dwelling 'capacity'. A mixed use development may be capable of a variety of different development outcomes and depending upon these outcomes the number of residential dwellings that will be delivered will differ, although the theoretical dwelling 'capacity' of such sites could be considered to be much greater. In these circumstances, were such an approach to be applied when calculating a sites affordable housing contribution, the amount of affordable housing could be so excessively high a proportion of the overall number of residential dwellings *actually* being developed that the site simply would not be deemed deliverable. Therefore such a policy would be proven to be unworkable and unrealistic.
- 1.6.4 Furthermore, the definition of a sites 'capacity' could be quite subjective, and the inclusion of such terminology without any adequate definition of what is meant by it, will result in confusion during the interpretation and application of the policy.
- 1.6.5 For this reason not only should the term mixed use development be amended to align with Core Strategy Policy CS6 (which refers only to 'residential development'), but the word 'capacity' should also be deleted and replaced with 'threshold' or 'the number of dwellings to be delivered'.
- 1.6.6 Whilst the Council refer to the term 'mixed use' within the glossary to the draft DPD (draft DPD appendix 2, page 31), the meaning which the Council will ascribe to the term is not provided.

1.6.7 To avoid any possible confusion the meaning of the term 'mixed use development' within Policy AH1 should be deleted and aligned with the reference to 'residential development' in Policy CS6 of the Core Strategy. The reference to 'capacity' should also be deleted, as this creates a further lack of clarity in respect of not only Policy AH1, but also subsequent draft DPD policies.

1.7 Issue 7:

“Would the retention of affordable housing in perpetuity and the blanket removal of permitted development rights be consistent with national planning policies?”

1.7.1 Other than on rural exception sites (which fall within the context of Policy AH5), it would be contrary to national guidance to require that affordable housing remains available as affordable accommodation in perpetuity. PPS3 does not require affordable dwellings to remain available as affordable housing in perpetuity, but rather that where this restriction is lifted, that any original subsidy invested be recycled to provide alternative affordable housing provision.² Therefore, the wording of Policy AH1 should be amended and the requirement for affordable homes to be retained in perpetuity removed and replaced with reference to the PPS3 definition of affordable housing and the recycling of subsidy.

1.7.2 There is also nothing contained within national guidance which suggests that it is appropriate to seek to impose a blanket removal of permitted development rights (see paragraphs 4.24 to 4.25 of the formal representations which consider this in more detail in relation to Policy AH5, and which applies equally to Policy AH1). Furthermore, Delivering Affordable Housing (“DAH”), the Affordable Housing Policy Statement which accompanies PPS3, cautions against the use of restrictions in relation to intermediate dwellings for sale which may impact on whether lenders will be prepared to lend (paragraph 75) – a restriction such as the removal of permitted development rights may be considered by a lender to unacceptably fetter the title.

1.7.3 The requirement within Policy AH1 (and AH5) which seeks the removal of permitted development rights should be deleted from the draft DPD as there is no basis for this requirement in national guidance.

² PPS3, Annex B, affordable housing definition, page 25

1.8 Issue 8:

“What circumstances would allow for a departure from policy?”

- 1.8.1 There is no indication within the wording of Policy AH1 of circumstances in which a departure from the policy position would be allowed, despite references within supporting text to affordable housing requirements taking development viability³ and ‘other material considerations,’ which may require a departure from the development plan policies, into consideration.⁴
- 1.8.2 The wording of Policy AH1 should be amended to reflect that there may be circumstances (other material considerations) which justify a departure from the development plan Affordable Housing Provision policy. Currently text in the reasoned justification refers to such circumstances, but this is not linked in any way to the actual policy wording of AH1.

1.9 Issue 9:

“Should there be reference to the separate Affordable Housing SPD?”

- 1.9.1 Whilst the draft DPD may refer to the separate Affordable Housing SPD, it would be inappropriate for issues of importance, and which should be included within a document that will be subject to independent examination, to be delegated to an SPD. In this respect **PPS12: Local Development Frameworks** (“PPS12”) states that:

“All the matters covered in supplementary planning documents must relate to policies in a development plan document or a saved policy in a development plan. They must therefore conform to the relevant development plan document (or saved policies), and thereby be consistent with national planning policy and generally conform with the regional spatial strategy...”

(Paragraph 4.40, PPS12)

Similarly the Council should not seek to use SPD to enforce approaches to affordable housing delivery which are not in accordance with national guidance (and thus have not been included within DPDs which will be subject to independent scrutiny).

³ Paragraph 5.5, and Section 8 of the draft DPD

⁴ Paragraphs 6.14 and 6.15, draft DPD

1.9.2 Unfortunately, through the draft Affordable Housing SPD (to which Pioneer Property Services Ltd have also submitted representations on behalf of Red Tree (2004) LLP) the Council appears to be seeking to implement new policy that is:

- a) not included within the draft DPD policies in respect of various issues such as affordable housing transfer price, requiring an open book approach*, mechanisms by which off site and commuted sum payments will be calculated, and the design standards of any new affordable provision, and is
- b) not in accordance with national policy.

* Whilst the draft DPD makes reference to open book negotiations this is set out only within supporting text and not within the actual policy wording (presumably because to require developers to provide financial viability assessments is not required by national guidance). In this respect, it is important to note the policy advice which is provided at paragraph 2.31 of PPS12 which deals with the “Reasoned Justification” parts of development plan documents generally. In particular, it states that:-

“the Reasoned Justification should not contain new policies or expand on the policy to which it applies and should not contain material which will itself be used for taking decisions on planning applications”

(emphasis added).

Therefore, the Council should not seek to impose such references set out within the draft DPD reasoned justification upon applicants.

2.0 Matter 2 – Allocated Sites (Policy AH2)

2.1 Issue 1:

“Is there inconsistency between the targets identified and the provisions of the Core Strategy and could this confuse developers when calculating land price / valuations?”

2.1.1 There is an inconsistency between the targets set out within Policy AH2 and the adopted Core Strategy. The adopted Core Strategy Policy CS6 includes a strategic affordable housing target of 50% from all sources which is to be applied on a site by site basis in response to the assessed level of need, and site specific characteristics and issues. Indeed, the approach taken to affordable housing targets within Policy AH2 of the draft DPD is extremely similar to that which was taken within the submission draft Core Strategy, of which the Core Strategy Inspector was heavily critical (see paragraphs 4.2 to 4.6 of the formal representations which consider this in more detail), and required modifications which removed the variable affordable housing targets and replaced them with a strategic overall target of 50% affordable housing from all sources.⁵

2.1.2 It is indeed likely that the approach taken will result in a lack of clarity may cause confusion for developers, prolong negotiations, and hinder the delivery of market and affordable housing. Please see paragraph 4.12 of the formal representations where the Core Strategy Inspector’s concerns regarding this ‘lack of coherence’ are considered.

2.2 Issue 2:

“Do the notional development schemes provide a robust and credible evidence base to support the specified targets / what evidence justifies a higher target for the rural areas?”

2.2.1 The notional development schemes alone (set out within the Adams Integra viability study) do not provide a robust and credible evidence base to support the specified targets, and do not adequately justify a higher target for rural areas. In particular, the notional schemes are based on a variety of assumptions, including the percentage of developer profit that developers will require if they are to pursue a site, build costs, and a 50:50 affordable

⁵ See paragraph 13.10, page 38, Inspector’s Report on the South Hams Core Strategy

housing tenure split (as opposed to the 60:40 tenure split in favour of social rented accommodation being sought by the Council in Policy AH4) - see paragraphs 4.3 to 4.6 and 5.4 to 5.14 of the formal representations for further detail in relation to the Adams Integra viability study referred to by the Council as providing justification for the draft DPD affordable housing targets. It is extraordinary that the Council commissioned Adams Integra to carry out a viability study which includes a 50:50 tenure split assumption, when, in actual fact, they are proposing affordable housing tenure split targets of 60:40 in favour of social rented accommodation. It is clear that the approach proposed by the Council in respect of the affordable housing tenure split renders the proposed affordable housing targets untested in terms of an informed assessment of viability.

2.2.2 The assessment of the notional development schemes carried out by Adams Integra represents an assessment of viability only, and, as with all viability assessments, will be very sensitive to any subtle alterations made to the assumptions applied, to the extent that a variety of conclusions could be arrived at in respect of what could be considered to represent a viable target or not. Whilst the Council may refer to the study in their negotiations with developers in respect of the overall 50% strategic affordable housing target (from all sources), this particular study cannot be considered to be reliable to a degree of confidence that enables the implementation of varied proportions of affordable housing being sought across different geographical locations (Policy AH2) or varied thresholds and proportions (Policy AH3).

2.2.3 The study can only be said to provide a broad basis for informing local authority negotiations, within the context of the overall 50% strategic target set out within the Core Strategy. The Adams Integra report does not include an assessment of the practicality of providing affordable housing in the proportions set out in the draft DPD Policy AH2, and neither does it comprehensively assess the potential impact of the proposed proportions upon the overall levels of housing delivery and the creation of mixed communities, or take into account the need to deliver low cost market housing as part of the overall mix. PPS3 (paragraph 29, page 11) requires that these issues are assessed. Furthermore, whilst national guidance states that local authorities may set differing affordable housing proportions across a series of site size thresholds, it does not advocate setting differing proportions by site location (i.e. rural / urban fringe / smaller urban areas).⁶

⁶ PPS3, paragraph 29, pages 10 – 11.

- 2.2.4 The notional development schemes considered by Adams Integra do not provide an informed assessment of all of these factors and therefore in this sense cannot be considered to be robust or credible without further assessment of these additional factors having been carried out. Adams Integra themselves confirm that theirs is a study of purely viability issues (paragraph 4.4.4).
- 2.2.5 In particular the scenarios provide no specific assessment of rural areas, instead the study considers 'value points' which relate to re-sale and newbuild values set out in appendix 3 of the study, and it is acknowledged by the study that the data in respect of rural values is limited (page 15, appendix 3). Indeed the study concludes at paragraph 27 that a target of more than 50% affordable housing is not likely to be viable on a district wide basis, and states that provision in excess of this may be considered only in 'strategic cases' and with a 'range of issues' being taken into account, including the availability of grant funding (paragraph 28). It is therefore confusing that in paragraph 29 the study contradicts its conclusions by suggesting potential policy target positions of 50%, 55% and 60% depending upon site location (i.e. inside the Plymouth fringe, smaller urban areas, and rural areas).
- 2.2.6 The study seeks to justify this by reference to the 'pressing need to optimise the scope for affordable housing delivery from allocated sites' and the 'strength of viability typically seen in different South Hams location types' (paragraph 29). This latter point conflicts with the statements made within paragraph 2.1.21 of the study, which highlights that there was a specific intention by the authors not to divide the district into settlements or 'geographies', but to use the results 'independently of location' and based on 'development value'. The study identified that this was an appropriate approach given that there tends to be variation between property values even within small geographical areas.
- 2.2.7 In summary, the Inspector to the Core Strategy expressed great concern regarding the local authorities desire to apply separate affordable housing targets to sites in different locations (i.e. rural versus urban / urban fringe). The Inspector was concerned that this approach was inappropriate given that the output of viability assessments can vary considerably depending upon the assumptions used, and in respect of how the targets would be likely to impact upon overall housing delivery across these areas. The Core

Strategy Inspector did not question the level of affordable housing need, but emphasised the importance of workable targets, and negotiation of provision on a site by site basis (hence an overall strategic affordable housing target). It is not clear that this most recent viability study and its assessment of 'notional development schemes' overcome the Core Strategy Inspector's concerns.

2.3 Issue 4:

“Is there evidence to show pre-assessment of allocated sites thereby avoiding anomalies or inequity in respect of windfalls for schemes of a similar number of dwellings?”

2.3.1 It is not apparent that there has been any pre-assessment of allocated sites carried out by the Council with a view to ascertaining whether there are any anomalies or inequity in respect of windfalls for schemes of a similar number of dwellings. There is no reference within the draft DPD to an evidence base which confirms that there are no such anomalies or inequity between allocated and windfall sites, and certainly, the Adams Integra viability study considers only notional development schemes and makes no assessment of the ability of actual allocated sites to deliver affordable housing.

2.3.2 Given that the affordable housing proportions and site size thresholds are based on the Adams Integra viability study, it would appear that the targets and thresholds in respect of allocated and windfall sites (that are comparable in size) remain untested in respect of whether the amount of affordable housing these sites will be able to deliver will be free of anomalies or inequity.

2.4 Issue 5:

“Could the different targets deter / frustrate developers from bringing forward sites within the rural areas, and are the targets consistent with national and regional guidance?”

2.4.1 See comments set out under sub-heading 1.2 of Matter 1/ 4353 in respect of whether the DPD will hinder the delivery of housing overall. See also paragraph 3.8 of the formal representations. The Council provides no informed assessment of how the targets will impact upon the delivery of housing overall in rural areas, but it is logical that any target

which results in a depression of the number of dwellings to be delivered in an area will also result in an increased supply / demand mismatch and, ultimately, an increase in unaffordability.

- 2.4.2 Given that the targets are based on a viability study which considers only notional development schemes as opposed to the actual ability of allocated sites to deliver affordable housing, and in view of the fact that the concerns voiced by the Inspector to the Core Strategy have not been resolved as a result of this further viability study, it is likely that the different targets will deter developers from bringing sites forward in rural areas. The Council have not robustly confirmed that the targets will not hinder housing delivery. As the study does not represent an informed assessment of viability and practicability, and has not considered the potential impact of the targets upon overall housing delivery and the creation of sustainable communities, it is evident that the targets have not been developed in line with national guidance.
- 2.4.3 Neither do the targets accord with the requirements of emerging regional guidance – see comments set out under sub-heading 1.4 of Matter 1 / 4353 (these consider emerging regional guidance and the requirement that LDD affordable housing targets are based on SHMAs and economic assessments which consider affordable housing delivery from all sources).

3.0 Matter 3 – Unallocated / Windfall Sites (Policy AH3)

3.1 Issue 1:

“What evidence demonstrates that a ‘no threshold’ approach would be viable and is this evidence robust and credible?”

3.1.1 The Council refers to the Adams Integra viability study as providing justification for the affordable housing thresholds and proportions set out within the draft DPD affordable housing policies. However, as comments under sub-headings 1.1 and 2.2 of Matters 1 and 2 / 4353 (respectively) identify the viability study does not represent a robust and credible evidence base, and neither does it consider the practicability of the proposed thresholds / proportions or assess the potential impact upon overall housing delivery and the creation of sustainable communities.

3.1.2 Paragraphs 4.15 to 4.17, and paragraph 4.19 at page 22, of the formal representations consider the ‘no threshold’ approach set out within policy AH3 in terms of whether this is compliant with national guidance, and whether robust and credible evidence has proven that this approach would be viable. It is concluded that the approach does not conform to national guidance (which seeks off site provision which is broadly equivalent to that which would have been delivered on site), and neither is it robustly demonstrated that the zero dwelling threshold is viable or practicable.

3.2 Issue 2:

“What evidence demonstrates that commuted sums will be used to deliver affordable housing in a timely manner and assesses the availability of such land? Is this evidence robust and credible?”

3.2.1 The draft DPD does not comment on the timescales within which commuted sums will be retained for use in delivering alternative affordable housing, or whether there has been any assessment of whether land will be available to deliver affordable housing with the use of such sums. The draft DPD does refer, however, to the draft Affordable Housing Supplementary Planning Document (“draft SPD”)⁷ as providing further information regarding the proposed affordable housing delivery mechanisms.

⁷ Pioneer Property Services Ltd has also submitted representations on behalf of Red Tree (2004) LLP in respect of the draft SPD

3.2.2 In section E5 of the draft SPD the Council sets out how it will manage any payments received in lieu of affordable housing on site. Whilst the Council states that such payments will be paid into a designated 'Affordable Housing Fund' and that this will be used in accordance with Circular 5/05, the Council does not set out the timescales during which the payments must be used to provide alternative affordable housing, or if not used, be returned to the contributing developer. Neither does the Council identify that it has assessed potential sites upon which it will be able to utilise these funds to deliver additional affordable housing. When considering pooled contributions Circular 5/05 makes reference to pooled contributions for the provision of infrastructure and states that:

“There should be a clear audit trail between the contribution made and the infrastructure provided.”

(paragraph B21, page 13),

and;

“In the event that contributions are made towards specific infrastructure provision but the infrastructure is not provided within an agreed timeframe, arrangements should be made for contributions to be returned to developers.”

(paragraph B24, page 13).

Whilst Circular 5/05 makes these statements in respect of infrastructure, it is evident that all contributions are subject to the same Circular 5/05 requirements in that they must be reasonable and fairly related to the development in question and provided to make a development acceptable in planning terms that would otherwise be unacceptable. Contributions should not be required as a betterment levy to simply enable the local authority to secure a share of development profits.⁸ To this end it is appropriate and reasonable to suggest that the pooled contribution requirements in respect of infrastructure should apply equally to pooled contributions held in an Affordable Housing Fund.

3.2.3 At paragraph E5.2 of the draft SPD the Council provides a vague summary of what it intends to use any interest accrued from the pooled contributions for. These uses include 'housing research' and 'other initiatives connected to the Council's strategic housing

⁸ Circular 5/05, paragraphs B6 and B7, page 10

objectives' in addition to the provision of affordable housing. However, given that Circular 5/05 requires that:

"...there should be a functional or geographical link between the development and the item being provided as part of the developer's contribution."

it is unclear why the Council feel it is appropriate to a) provide so vague an account of what they intend to use the funds for, and b) to use the funds for anything other than the provision of alternative affordable housing, particularly as PPS3 requires that off-site or commuted sum provision must contribute to the creation of mixed communities in the local area. It is not clear that housing research or other strategic objectives will physically contribute to the creation of mixed communities, and neither do such uses reflect the reasoning within Circular 5/05 that there must be a functional or geographical link between the developer's contribution and the development itself. Indeed, when considering the Secretary of State's policy tests, Circular 5/05 states that:

"Planning obligations should not be used solely to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning objectives that are not necessary to allow consent to be given for a particular development."

(paragraph B9, page 10).

Where either the accrued interest or actual funds are not used for their intended purpose of the provision of alternative affordable housing within a reasonable timeframe, mechanisms should exist to ensure that these are returned to the contributing developer. The funds (or interest) should not be applied to wider strategic objectives which are not directly connected with the consent given for a particular development from which the contribution was derived merely because the Council has been unable to apply the funds in the required manner.

3.2.4 Circular 5/05 also states that the details of how planning contributions will be applied should be set out within supplementary planning documents and the generic policies in respect of 'payment types' should be set out within Development Plan Documents.⁹ It is not evident that either the adopted Core Strategy or the emerging draft DPD set out such generic

⁹ Paragraph B17, page 12

policies, and it is evident that national guidance states that it is not appropriate for these generic policies to be set out within supplementary planning documents.

3.2.5 In summary, it is not apparent that the Council have provided any evidence that demonstrates that commuted sum payments will be used in a timely fashion to deliver affordable housing, or to show that there are any potential sites upon which such housing can be delivered.

3.3 Issue 3:

“Is there a danger that commuted sums would not be used in the areas of greatest need?”

3.3.1 In the light of the comments made under sub-heading 3.2 of Matter 3 / 4353, there is a danger that commuted sums will not be used in the areas of greatest need, or indeed be used at all. This would particularly appear to be the case given that it is not apparent that the Council have provided any evidence of their having assessed whether there are any available sites (or sites that are available and are prioritised by reference to the localities need for additional affordable housing) upon which commuted sums can be invested.

3.4 Issue 4:

“Is paragraph 7.10 contradictory?”

3.4.1 Paragraph 7.10 of the draft DPD suggests that any site which is suitable for the delivery of housing will also be suitable for the provision of on site affordable housing on site. It is therefore confusing that in respect of windfall sites Policy AH3 does not require on site provision from sites below a 6 dwelling threshold, but rather, seeks an off site contribution. This suggests that the Council feel that on site provision would not be appropriate in such circumstances, although they do not robustly justify why.

3.4.2 The Adams Integra viability study which acknowledges that, whilst in viability terms appraisals do not pick up on ‘site size sensitivity’, the practicalities of delivery upon smaller sites ‘may become a greater issue than pure viability’. The viability study states that the Council considered from the outset that there would be a ‘role’ for financial contributions from smaller sites due to the practical issues associated with affordable housing delivery upon such sites. Given that it appears to be considered by the Council and the Adams

Integra viability study that the delivery of affordable housing on sites of less than 6 dwellings would not be practicable, in terms of PPS3, which requires thresholds to be practicable in addition to being viable, a reduction in the affordable housing threshold in South Hams to below 6 dwellings would be inappropriate. (This is in addition to the conclusion that there has been no robust or credible assessment of the viability and practicality of lowering the threshold to below the national indicative minimum, let alone to below 6 dwellings.)

- 3.4.3 PPS3 (paragraph 29) clearly states that the presumption will be that affordable housing contributions will be provided on site, unless off-site provision / a financial contribution can be 'robustly justified', and that contributions must be broadly equivalent to that which would have been made on site. See paragraphs 4.17 to 4.18 of the formal representations for further consideration of the Policy AH3 thresholds.
- 3.4.4 For the reasons set out above paragraph 7.10 of the draft DPD is contradictory to Policy AH3 and contrary to national guidance.

4.0 Matter 4 – Mix, Size, Type & Tenure (Policy AH4)

4.1 Issue 1:

“Would the tenure split meet housing needs and be consistent with the Regional Housing Strategy, the Housing Needs Market Assessment and Government objectives for creating mixed and balanced communities?”

4.1.1 Paragraphs 3.2 to 3.7 of the formal representations consider this issue in detail. In summary the Regional Housing Strategy does not recommend a tenure split to be included as part of the LDF, but only refers to how funding should be allocated across social rented and intermediate accommodation.

4.1.2 The HNMA 2006 does not appear to suggest a specific tenure split within its conclusions in respect of future affordable housing delivery, but states that:

“The scale of expressed need and preference from existing and concealed households for intermediate housing is the highest we have ever experienced in 225 Local Authority assessments.”

(paragraph 19.6.2)

The HNMA 2006 goes on to acknowledge that in terms of:

“...both stock and availability from turnover, the social rented sector provides over 13 times the scale of units (236) to those from shared ownership (18) each year.”

(paragraph 19.8.2),

and goes on to state that the survey data:

“...suggests a total demand for HA rent from both existing and new forming households of 1,145 units compared to 658 for intermediate housing, a ratio of less than 2 to 1 compared to supply of 13 to 1. There is therefore a very strong case to deliver a much higher proportion of intermediate housing bearing in mind that the total scale of intermediate housing preference alone is greater than the whole housing allocation.”

(paragraph 19.8.3)

Given that the HNMA 2006 identifies in paragraph 19.6.1 that affordable housing delivery over the last 3 years has been split 66:34 in favour of social rented accommodation, it would appear that the HNMA 2006 considers it necessary to significantly increase the 34% proportion of intermediate affordable housing that has been delivered to date if intermediate affordable housing needs are to be met. The 60:40 tenure split (in favour of social rented housing) proposed by the Council does not appear to heed the HNMA 2006 advice. Furthermore, the approach taken is also not in alignment with the Plymouth Housing Needs and Market Assessment (“Plymouth HNMA 2006”) conclusions, which recommend a 50:50 tenure split (see page 24 of the Plymouth 2006 HNMA). This is curious given the close association between the two local authority areas, and the likely levels of cross boundary affordable housing need / supply that may take place.

4.1.3 It is not apparent that the Council has carried out any robust assessment of whether the strategic 60:40 (in favour of social rent) tenure split they are proposing will deliver sustainable, mixed and balanced communities. It is therefore not clear that this target will achieve Government objectives in this respect.

4.2 Issue 2:

“Should there be a greater spatial interpretation of tenure split and should local circumstances be cited?”

4.2.1 Policy AH4 suggests an overall strategic 60:40 tenure split in favour of social rented accommodation, and this suggests that some areas within the district may require different tenure splits to others. However, the Council does not elaborate on this either in the policy wording or any reasoned justification text to the policy. This is despite their having referred to the HNMA 2006 when setting out the strategic tenure split.¹⁰ Whilst the sub-area tables in appendix 1 of the HNMA 2006¹¹ cannot be considered to represent a reliable evidence base on which to base tenure split requirements (see comments under sub-heading 4.1, Matter 4 / 4353 above), the does represent the Council’s own evidence base and it would

¹⁰The proposed tenure split appears to be based on a table at page 10 of appendix 1 to the HNMA which compares demand for social rented dwellings and shared ownership dwellings.

¹¹ These tables set out affordable housing type, size and tenure requirements based on an assessment of household preferences

therefore seem odd that they have not chosen to refer to the spatial distribution of affordable housing tenure split suggested by the survey, and cited local circumstances.

4.2.2 Whilst greater spatial interpretation of tenure split, and further detail regarding local circumstances would be useful for those seeking to work within the context of the Council's affordable housing policies, it is not evident that there is a robust enough evidence source available at this time from which to draw such conclusions.

4.3 Issue 3:

“Should recognition be given to schemes where it may not be possible to integrate market housing with affordable housing?”

4.3.1 Policy AH4 states that affordable housing ‘will’ be integrated with market housing, and does not allow for circumstances where this may not be possible (as a result of design or management issues for example). Additionally, the policy does not provide any indication of the degree to which the local authority will seek integration, and given that in the draft Affordable Housing SPD the Council states that they will require all of the affordable housing to be ready for occupation prior to the completion of 50% of the market dwellings¹² (although there is no basis for this requirement within either adopted Core Strategy or draft DPD policy wording) it is difficult to see how any sensible level of integration can be achieved.

4.3.2 Policy AH4 should be amended to reflect that it may not always be possible to integrate affordable and market dwellings, and also the Council should define what is meant by the term ‘integration’ and how they will ensure that their approach works with affordable housing management requirements and any site specific issues.

¹² Please see Matter 1/4353 paragraph 1.1.3 regarding the impact of this ‘front loading’ requirement upon the assessment of viability