

Sefton Council



Affordable and Supported Homes

Supplementary Planning Document

May 2023

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1. Introduction

1.1 The aim of the Supplementary Planning Document (SPD) is to provide clear guidance to applicants, developers and other stakeholders on how the Council will deal with planning applications for affordable or supported housing or for market homes that trigger the need for affordable or supported housing.

1.2 Everyone has the right to a home. Sefton Council is committed to delivering the right homes in the right places in order to provide for the current and future needs of all residents of our Borough.

1.3 The Council has adopted a Local Plan (April 2017) which, amongst other things, sets out areas where new housing development should be located and the policies that should be applied when considering planning applications for new development. It also requires developers to provide a variety of housing types, sizes and tenures, to provide a choice of market, affordable and supported needs housing in mixed communities.

1.4 One of the key aims in the Local Plan is to meet identified affordable housing and supported housing needs in the Borough. The Council's approach to delivering affordable and supported housing is set out in Policies HC1 and HC2 of Sefton Local Plan.

1.5 This Supplementary Planning Document (SPD) expands upon these policies and provides detail on how specific policies are to be implemented.

1.6 Since the adoption of the Local Plan the Council have updated its evidence base for housing (the 2019 Strategic Housing Market Assessment) and this has informed several changes to how the Council will implement the Local Plan policies. Several changes have also been made due to changes to the NPPF and the introduction of First Homes.

2. National Policy Context

2.1 The National Planning Policy Framework (NPPF) sets out government policy on planning for affordable housing as follows:

- Paragraph 34 requires that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required.
- Paragraph 60 states that in order to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals.
- Paragraph 61 sets out that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).
- Paragraph 64 requires that where major development including the provision of housing is proposed, planning policies and decisions should expect at least 10% of

the homes to be available for affordable home ownership as part of the overall housing requirement contribution from the site.

2.3 In March 2014, the Government introduced National Planning Practice Guidance (NPPG), a web-based planning policy resource. NPPG provides extra detail and guidance to back up the national planning policies set out in the NPPF. NPPG is updated periodically but should always remain consistent with NPPF policy.

2.4 In November 2014, the Government announced changes to NPPG including the introduction of 'vacant building credit'. This provision applies to the redevelopment of brownfield sites and requires local planning authorities to take account of the floorspace of any existing buildings on site when calculating affordable housing requirements for the proposed new development.

2.5 In May 2021 the Government introduced First Homes as a new tenure of affordable housing within the affordable home ownership typology and this set out new requirements for the provision of First Homes within section 106 secured affordable housing.

3. Local Policy Context

3.1 The Sefton Local Plan was adopted in April 2017. The Local Plan includes policy HC1 'Affordable and Special Needs Housing'. The term 'special needs' housing in the policy has been replaced by 'supported housing' in this SPD. This policy sets out how the Council will secure affordable homes as part of market housing developments, including the proportion of affordable housing, tenure split and layout considerations. The policy also sets out the limited instances when affordable homes can be reduced or offset by a financial contribution or supported homes.

3.2 Policy HC2 acknowledges that Sefton has an ageing population and therefore requires at least of 20% of new market homes (on schemes of 50 homes or more) to be designed to meet part M4(2) of the Building Regulations for Accessible and Adaptable Homes.

3.3 The specific requirements of policies HC1 and HC2 are provided at each relevant section in this SPD for context.

3.4 In addition to the Local Plan, there a number of Neighbourhood Plans which have been 'made' (i.e. adopted) in Sefton. An applicant should check the status of the neighbourhood plans within Sefton (see www.sefton.gov.uk/neighbourhoodplanning) to confirm if there are any additional requirements/policies in relation to affordable housing.

4. Definition of Affordable Housing

4.1 The Council uses the Government's own definitions of affordable housing as stated in the Annex 2: Glossary of the National Planning Policy Framework (NPPF).

Affordable housing is defined in NPPF (February 2019) as:
Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)
and which complies with one or more of the following definitions:

a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

4.2 In Sefton, to ensure that local people are able to access affordable housing for rent, affordable rents must be set below Local Allowance caps. These can be viewed at <https://lha-direct.voa.gov.uk/>.

4.3 In addition to the NPPF definition of affordable housing, the government has subsequently introduced a new affordable housing tenure, **First Homes**. First Homes can be included within the 'Other affordable routes to home ownership' and was introduced in May 2021. Guidance on First Homes¹ sets out that First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations. This will clearly have an impact on how the Council implement its affordable housing policy, in particular the tenure split requirements. This is covered in section 7 below.

¹ <https://www.gov.uk/guidance/first-homes>

4.4 First Homes are discounted market sale units which:

- must be discounted by a minimum of 30% against the market value;
- are sold to a person or persons meeting the First Homes eligibility criteria (see below);
- on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,
- after the discount has been applied, the first sale must be at a price no higher than £250,000

4.5 The minimum discount, maximum first sale price and eligibility criteria can be set to local criteria if justified. Based on an assessment of local housing affordability² the Council considers that the 30% discount is acceptable subject to a maximum price cap (for first sale only) of:

- For a one or two-bedroom home –£180,000
- For a three-bedroom home - £200,000
- For a four+ bedroom home – apply the national cap of £250,000

This price cap will be reviewed regularly and at least every three years. [note – the caps above were updated in April 2024]

4.6 Discounted market homes are very similar to First Homes with the exception that they are not restricted to first time buyers (see below), and they have a minimum discount requirement of 20%. Nonetheless, based on an assessment of local housing affordability any discounted market sales housing will also be subject to a maximum price caps above.

5. Eligible Households

5.1 Affordable housing is defined in the NPPF as ‘housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or for essential local workers)’ [our emphasis]. Therefore, affordable housing that is provided (regardless of tenure) will only be available for those who can demonstrate that their needs are not met by the market. How this is determined will differ depending on the tenure of the affordable home. Furthermore, as we are seeking to meet local affordable housing need, there will be an additional local connection criterion to be considered eligible.

5.2 Affordable and Social Rented properties in Sefton are managed through Property Pool Plus. Property Pool Plus is a sub-regional housing allocation scheme which covers Halton, Liverpool, Knowsley, Sefton and Wirral areas. Through this system applicants are categorised and prioritised in accordance with their eligibility. We require all homes provided for affordable and social rent to be managed through Property Pool plus.

5.3 Other tenures of affordable housing, such as Discounted Market Sale homes and First Homes will be sold directly through the developer (or third party appointed by the developer). In these cases, it will be necessary for any prospective purchasers to demonstrate their eligibility.

² Housing Affordability in the Context of First Homes (JG consulting, February 2022)

First Homes Eligibility

5.4 The national eligibility criteria for First Homes are set at paragraph 007 of the First Homes national guidance. The Council are able to apply their own eligibility criteria. Based on an assessment of affordability² the following is the Sefton's eligibility criteria for First Homes:

- A purchaser (or, if a joint purchase, all the purchasers) of a First Home should be a first-time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers (national criteria).
- Purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding **£60,000** in the tax year immediately preceding the year of purchase (local criteria – national level is £80,000). [note - this was updated in April 2024]
- A purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price (national criteria).
- At least one the purchasers should meet one of the following criteria:
 - Meets the local connection requirement³
 - Is a key public sector worker in the health and social care, emergency services or education sectors
 - is or was a member of the armed services within the past 5 years (local criteria)
- The number of bedrooms in the First Homes should match the needs of the prospective occupiers, using the following criteria:
 - 1 or 2 bedroom – one person or more
 - 3 bedroom – at least two people (including children)
 - 4+ bedroom – at least three people (including children) (local criteria)

The Council will consider a larger home than the household size would suggest if a case is clearly and robustly made that, due to specific household or family circumstances, a larger home is required.

5.5 It is a requirement that a prospective purchaser confirm with the Council that they meet the above eligibility criteria. Evidence should be submitted that clearly demonstrates that eligibility criteria is met. The Council will issue a compliance certificate to applicants who demonstrate their eligibility to purchase a First Home. The Council will seek to issue the compliance certificate within 28 days of being issued with the evidence to satisfy eligibility. Developers and housebuilders should make prospective purchasers aware of the necessary eligibility criteria and evidence necessary to avoid delays.

³ Have lived in the Sefton for 6 months out of the last 12 months or 3 years out of the last 5 years; or have a permanent job in Sefton; or have a minimum of a 12-month contract of employment in Sefton or have been working for a continuous period of 6 months in Sefton; or have a close family association (parent, child or brother/sister) who is currently living in Sefton and has done so for more than 5 years;

5.6 If, after a First Home has been actively marketed for 3 months, and it has not been possible to find a willing purchaser who meets the Eligibility Criteria above, the Council will relax the locally set criteria, i.e. in relation to household income, local connection, size of home. All of the criteria will be applied for subsequent sales of the home subject to the 3 months marketing requirement.

Discounted Market Homes eligibility

5.7 The Council will apply the same eligibility criteria for discounted market homes as for First Homes, with the exception of the purchaser needing to be a first-time buyer.

6. The need for Affordable and Supported Housing in Sefton

6.1 The Council published its most recent Strategic Housing Market Assessment (SHMA) in 2019. This identified the housing needs, including the need for affordable and supported housing in the Borough. Sefton has a total net affordable housing requirement of approximately 7,432 homes over the period 2017-2036 which is equivalent to about 391 affordable homes a year. The need for affordable homes varies across the different parts of Sefton. The table below sets out the estimated annual net need for new affordable housing in each of Sefton's key settlements.

Affordable Housing Need in Sefton

	Net affordable annual housing need	Net need per 1,000 households
Southport	226	5.4
Formby	60	5.9
Sefton East	77	5.1
Crosby	73	3.4
Bootle	-17	-1.0
Netherton	-28	-1.8
Total	391	3.2

6.2 There is a need for additional affordable housing in many areas of the Borough with Southport showing the highest numeric need (226 units per annum). The area with the highest need by proportion of existing households is Formby (5.9 per thousand households), followed by Southport (5.4 per thousand households) and Sefton East (5.1 per thousand households).

6.3 Both Bootle and Netherton show small surpluses of affordable housing, which is consistent with the relatively large stock of affordable housing along with some of the cheapest housing costs in the Borough. Nonetheless the 2019 SHMA suggests that a target for 15% affordable housing in Bootle and Netherton should be considered to (i) improve the mismatch between the size of social rented accommodation required (particularly 1 and 2 bedroomed dwellings) and anticipated supply and (ii) to provide opportunities for younger (lower income) households to access owner-occupied housing.

6.4 The 2019 Strategic Housing Market Assessment⁴ (section 4) looked at the level need for affordable home ownership homes in Sefton. This suggests that there could be a need of up to 315 affordable home ownership units in Sefton each year.

⁴ https://www.sefton.gov.uk/media/3487/sefton_shma_final_report_oct2019.pdf

7. Sefton's Affordable Housing Policy

7.1 Proposals for 15 (net) additional dwellings or more are required to contribute to affordable housing. In the past we have only applied the affordable housing requirement on schemes that fall under Use Class C3 and not sought an affordable housing contribution on housing accommodation with care (Use Class C2). However, a recent High Court Judgement⁵ indicated that the application of the Local Plan Policy depends on the wording. If the policy states that it only applies to C3 uses, then that is the key factor. However, if it applies to 'dwellings', as is the case in Sefton, then the affordable housing policy will apply to proposals for all dwellings, regardless of whether it falls within a C3 or C2 use. The table below sets out the affordable housing requirement in Bootle and Netherton and the rest of Sefton.

	Development Size	Affordable housing Requirement
Bootle and Netherton	1-14 net additional dwellings	None
	15 or more net additional dwellings	15%
All other areas	1-14 net additional dwellings	None
	15 or more net additional dwellings	30%

7.2 The Local Plan sets out that the affordable housing requirement is measured by bedspaces rather than units or bedrooms. However, following the recommendations of the 2019 Strategic Housing Market Assessment (SHMA) **from January 2020 the Council will use units for the basis of calculating the affordable housing requirement.**

7.3 For the purposes of Local Plan policy and this SPD, Bootle and Netherton is defined as the electoral wards of Derby, Ford, Linacre, Litherland, Netherton & Orrell and St Oswald. This area is shown on the Local Plan policy map and at Appendix A.

7.4 The Council will not permit sites to be artificially sub-divided to avoid the affordable housing requirement. For example, if a site is divided so that two separate applications of 10 homes are received, we will still seek to ensure the full affordable housing requirement is secured on the full 20 homes. This will be secured on the application that takes the total number of homes above the policy trigger. In deciding whether a site is a single planning unit the Council will consider the following:

- Whether the site is, or has recently been, within single ownership
- Whether the site is a single Local Plan allocation or identified in the Strategic Housing Land Availability Assessment as a single site
- Whether the sub-division of the site is based upon robust boundaries, such as main roads, water features (rivers, canals, large brooks etc.), or different existing land uses
- The planning history of the site (i.e. has the site been recently subject to previous applications or pre-application advice)
- The time difference between the applications

⁵ [Rectory Homes Limited v Secretary of State for Housing, Communities and Local Government. Case Number: CO/4682/2019](#)

8. Tenure Split

8.1 Policy HC1 of the Local Plan set out that the tenure split of affordable housing should be:

50:50 between affordable/social rent and intermediate housing in Bootle and Netherton, and

80:20 between affordable/social rent and intermediate housing elsewhere

8.2 However, changes to the NPPF (specifically paragraph 64), the introduction of First Homes, and the subsequent review of the SHMA requires a change to the tenure split we are applying.

8.3 The amended approach for the tenure splits within affordable housing secured by planning obligation (note – this does not apply to 100% affordable housing schemes, see below) is:

Outside Bootle and Netherton

30% affordable homes

Split by:

67% (minimum) affordable or social rent

25% (minimum) First Homes

8% (maximum) other affordable home ownership homes

Bootle and Netherton

15% affordable homes

Split by:

33% (minimum) affordable or social rent

25% (minimum) First Homes

42% (maximum) other affordable home ownership homes

8.4 Within the 'other affordable home ownership homes' in the table above, additional First Homes can be provided as can other types of homes that would fall within this broad affordable tenure type (such as Shared Ownership).

9. 100% Affordable Housing Schemes

9.1 Whilst the Council has a significant affordable housing need, this is not equally spread throughout the borough. The areas with higher house prices have a much higher affordable need than the areas with lower house prices, i.e. Bootle and Netherton (see above). However, in recent years, Bootle and Netherton have seen many large housing developments that provide 100% affordable housing. Whilst this can help diversify the choice and quality of affordable housing in Bootle and Netherton, and often helps to regenerate derelict sites, it can cause an issue by restricting the provision of market and aspirational homes in these areas. It can also undermine the objective of creating mixed and balanced communities as set out at paragraph 63 of the National Planning Policy Framework.

9.2 Therefore, the Council requires **in the Bootle and Netherton area only** the following will apply –

On schemes of 50 dwellings or more, no more than 50% of the homes provided should be made available for social or affordable rent.

9.3 The remainder of the homes on these schemes can still be affordable housing but must be affordable homes for sale, which could include First Homes, Shared Ownership Homes, Rent to Buy or other homes that provide an affordable route to home ownership. The remaining homes may also be market homes. We will accept 100% affordable housing schemes of any tenure outside Bootle and Netherton.

9.4 On 100% affordable housing schemes the Council will not apply any tenure split requirements other than the above (i.e. the tenure split in section 8 does not apply to 100% affordable housing schemes).

9.5 Due to the need to clarify issues relating to definitions, tenure split, nomination rights, and delivery etc. the Council will require schemes for 100% affordable homes to be secured through section 106 agreements. This is supported by paragraph 8.23 of the Local Plan which states that ‘all affordable or special needs housing will be secured through legal agreement’. This also protects the Council if a site secures planning permission for 100% affordable housing, and this is subsequently sold to a private developer. We will work with registered providers, as applicants on funded schemes, to ensure that the content of the section 106 does not contradict funding requirements.

9.6 The Council accepts that the delay in issuing a decision notice may undermine the ability of the Registered (Housing) Provider to secure funding. The Council will consider as a special circumstance, on affordable housing schemes by Registered Providers only, to use a pre-commencement condition to secure the signing of a section 106 agreement. It is the responsibility of the Registered Provider as the applicant to clearly demonstrate this is necessary. It may also be beneficial for a Registered Provider to submit draft ‘heads of terms’ to support an application to clearly set out what they consider a section agreement should contain. This is likely to make the process of issuing a section 106 quicker. We will work with registered providers, as applicants on funded schemes, to ensure that the content of the section 106 does not contradict funding requirements.

9.7 On a case-by-case basis, the Council will consider some flexibility on the specific clauses that secure affordable housing and how they are applied on the portion of affordable homes provided in excess of the planning policy requirement (as set out in Local Plan Policy HC1 and this SPD). This will have to be justified by the affordable housing provider setting how those clauses would impact on the delivery of those affordable homes or any external funding.

10. Affordable Housing Design Considerations

Part 8b of Policy HC1 states

Affordable and/or special needs dwellings shall be:

‘pepper-potted’ i.e. there shall be a reasonable dispersal of affordable housing or special needs units within residential developments (i.e. groupings of no more than six units) to promote mixed communities and minimise social exclusion.

The only exception to this will be where it can be demonstrated that the special needs housing has to be grouped together for functional or management purposes.

10.1 'Pepper-potting' is commonly considered as the dispersal of affordable housing units within residential developments to promote mixed communities and minimise social exclusion. The overriding purpose of pepper-potting is to ensure affordable housing is fully integrated within market housing, to ensure a reasonable distribution throughout the site and that no undue concentration of affordable housing is provided in particular parts of the site.

10.2 Developers are strongly advised to discuss at an early stage, preferably at a pre-application stage, appropriate layout and phasing of development with the Local Planning Authority to ensure that affordable housing is dispersed in an acceptable way throughout the development in order to minimise delays once a planning application is submitted.

10.3 To assist, Policy HC1 of Local Plan has set out that groupings of no more than six affordable homes should be provided. However, this is not the only consideration for pepper-potting to be acceptable. The following are issues that the Council will consider:

- Are the affordable homes clustered in one part of the development?
- Is there a greater proportion of the affordable homes located in the least desirable parts of the proposal, such as next to rail lines, busy roads, employment areas etc.?
- Are groups of affordable homes separated by a small number of market homes to artificially avoid groups of more than six affordable homes?

10.4 The Council do accept in very large schemes, those that secure 50 affordable homes or more), it may not be possible to fully disperse all the affordable housing into individual groupings of six. We may be prepared, in limited circumstances, to be flexible if the principle of providing mixed communities is clearly being demonstrated.

10.5 The examples below show what distribution of affordable housing would and would not be acceptable. The Council appreciates that each scheme is different, and these broad principles may not always be easily interpreted on site. The Council will assess each site on its merits but will always seek to ensure that the principle of pepper-potting is adhered to.

10.6 In the example below the affordable housing is all clustered in the bottom left and central areas. There are groupings of more than six affordable homes and large sections of the development do not have any affordable homes at all. **This distribution of affordable housing would not be acceptable.**



10.7 In the same example below the affordable homes are distributed across all areas of the proposal. There are no more than six affordable homes in a group. **This distribution of affordable would be acceptable.**



10.8 In addition to these broad principles, on very large schemes the Council will expect a reasonable distribution of affordable across each clearly defined zone or phase. A zone is an area that is clearly defined by a main road, area of open space, water feature etc.

10.9 The Council will also require affordable units to be pepper-potted within flatted schemes. There should be a reasonable dispersal of affordable housing across different blocks of flats and, in some cases, throughout individual blocks. In mixed tenure flats careful

consideration must be given to how any communal amenity space and parking will managed and RPs should be involved to ensure that what is being proposed is acceptable to them. In some cases, it may not be feasible to have mixed tenure flats due to management purposes. In these cases, the Council may accept slightly more than six affordable homes in a single block on a case-by-case basis. However, the Council will not accept all the affordable homes in large single block of flats on a scheme where the market homes are otherwise in dwellings.

10.10 If it is intended to provide flats as affordable homes it is strongly recommended to speak to a Registered Provider (of affordable housing) prior to submitting an application to ensure that what is proposed is acceptable, both in terms of the size and format of the accomodation. In the Council's experience Registered Provider's have very specific requirements in terms of providing affordable housing as part of flatted schemes and these requirements need to be taken into account by developers. The Council wishes to avoid circumstances where schemes are approved with flatted developments containing some affordable housing and then subsequently for the developer to advise the Council that there is no Registered Provider interest in the affordable housing units

Part 8a of Policy HC1 states

Affordable and/or special needs dwellings shall be: 'tenure blind' i.e. there shall be no external visual difference between the affordable/special needs housing and market housing

10.11 The quality of the affordable and market homes should be of the same high standard. Whilst the Council accepts there are likely to be some differences between the house types used for affordable and market homes, each should be of the same standard in terms of materials, build, space, external features, design quality and overall appearance. It should not be possible to walk through a completed scheme and know which are the affordable homes simply by appearance. The Council strongly recommends that a mixture of house types are used for the affordable housing and that the same house types are used for both the affordable and market housing where possible.

11. Permitting off-site affordable housing provision and financial contributions in lieu of on-site provision

Part 10 of Policy HC1 states

Off - site provision of affordable housing, or a financial contribution of broadly equivalent value, will be considered where it can be robustly justified, and where the agreed approach contributes to the objective of creating mixed and balanced communities.

11.1 The overwhelming priority for the Council is to secure the provision of affordable housing on-site as part of larger housing schemes. However, in a limited number of exceptional circumstances the Council may accept either the affordable homes to be provided off-site or accept a financial contribution in lieu of on-site affordable housing. The applicant will have to clearly demonstrate why the provision of on-site affordable homes is not practicable or desirable. Developers must also be able to clearly demonstrate how an off-site financial contribution contributes to the objective of creating mixed and balanced communities.

11.2 The exceptional circumstances that may justify an alternative to on-site affordable could include:

- The site may not be suitable for affordable homes as it is not readily accessible to services and public transport (the Council does not envisage there are many locations in Sefton where this will apply)
- Where there is a demonstrable lack of interest from a Registered Provider (Housing Association) purchasing the affordable housing properties
- The Council considers that the affordable homes would be better provided elsewhere

11.3 In order to demonstrate that there is a demonstrable lack of interest from a Registered [Social Housing] Providers (RPs) the applicant must set out in an affordable housing statement (or similar) the measures that they have undertaken to engage with a wide range of locally active Registered [Social Housing] Providers (RPs) in a timely, rigorous and effective manner. The applicant will have to provide letters from at least three locally active RPs that clearly show that they have legitimate reasons why they would not be willing or able to manage on-site affordable housing. The Council will confirm with each of the RPs their reasons for not being able to manage affordable housing on site.

11.4 Regardless of the argument put forward to justify off-site provision of affordable homes, it is at the discretion of the Council whether it will accept an alternative. Financial contributions in lieu of on-site affordable homes will be subject to same test of viability as on-site affordable housing.

12. Calculating off-site financial contributions in lieu of on-site affordable housing

12.1 In calculating a commuted sum the following approach will be used:

Step A

The applicant must provide details of the different types and sizes of homes within the proposed scheme. The Council, in liaison with the developer, will determine what proportion of each of these house types would be required to be affordable if the Council's affordable housing policy were to be met.

The key consideration should be meeting the overall provision of affordable units [15% in Bootle and Netherton, 30% elsewhere] and the tenure split as set out at section 8 above].

Step B

The applicant must provide details of the open market value [OMV] of the identified affordable homes. This should be based on local evidence of similar schemes and be supported by a valuation prepared by an RICS Registered Valuer.

Step C

The applicant must submit evidence to demonstrate how much an appropriate Registered Provider [RP] would purchase the affordable housing units for on the basis that the dwellings remain affordable units.

This can be provided as either a) as a cash price for each affordable unit or b) as a % of the OMV for affordable home types (e.g. affordable rent, shared ownership etc) the RP would normally pay [i.e. the RP transfer rate].

The applicant should calculate the 'cost to developer' if the affordable units were to be provided on site. The cost will be equivalent to the difference between the OMV and the price that the Registered Provider would be prepared to pay

e.g. If a house is worth £200,000 on the open market and a registered provider would purchase the property for £120,000 then the 'cost to developer' would be £80,000.

Similarly, if the RP would pay 60% of the OMV for a house the developer would bear the remaining 40% of the value, i.e. the 'cost to developer' would be £80,000.

The evidence we will accept is a letter from three Registered Providers that are active in Merseyside, preferably Sefton. The Council will use the average RP transfer rate to calculate the cost to developer.

In the absence of submitted evidence that has been endorsed by the Registered Providers the Council will use its own evidence to determine the 'cost to developer'. The evidence is likely to be based on recent transactions across Sefton and neighbouring areas.

Step D

Once the total 'cost to developer' is calculated for the scheme the Council will include uplift (see below) to the financial contribution to reflect the fact if the affordable homes are provided off-site, the number of market homes on site increases.

12.2 In calculating this uplift the Council will apply the following assumptions:

$$\text{Total Scheme [TS]} = \text{Market Homes [MH]} + \text{Affordable Homes [AH]}$$

For sites within Bootle and Netherton

$$\text{Market Homes [MH]} = 0.85 \times \text{Total Scheme [TS]}$$

$$\text{Affordable Homes [AH]} = 0.15 \times \text{Total Scheme [TS]}$$

For sites outside Bootle and Netherton

$$\text{Market Homes [MH]} = 0.7 \times \text{Total Scheme [TS]}$$

$$\text{Affordable Homes [AH]} = 0.3 \times \text{Total Scheme [TS]}$$

12.3 In a scheme where the affordable housing is provided on-site then the Total Scheme [TS] is the known factor.

12.4 For example in a scheme (outside Bootle and Netherton) with a total of 100 units the following split between Market Homes [MH] and Affordable Homes [AH] will be required to be policy compliant.

Total Units	100 (known value)
No. of Market Homes	70 (0.7 of total scheme)

No. of Affordable Homes	30 (0.3 of total scheme)
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12.5 However, if the Affordable Homes [AH] are to be provided off-site and the application site is to be wholly Market Homes [MH] then the Total Scheme [TS] increases. In this scenario the number of Market Homes [MH] becomes the known factor.

The formula:

Market Homes [MS] = 0.7 x Total Scheme [TS], can be rewritten as
Total Scheme [TS] = Market Homes [MH]/0.7

12.6 Therefore, in the same scheme as above the total scheme will increase as follows:

No. of Market Homes	100 (known value)
Total Homes	143 (i.e. Market Homes/0.7)

12.7 As we know:

Total Scheme [TS] = Market Homes [MH] + Affordable Homes [AH]

The number of Affordable Homes [AH] will therefore be the equivalent of 43 units (i.e. 30% of the total scheme). The financial contribution for off-site affordable housing will have to reflect this.

11.8 If the applicant determines that the final financial contribution would make the scheme unviable, they must demonstrate this through a viability statement (see section 14 below). This would have to be appraised by our retained economic viability consultants and the fee for this is borne by the applicant.

13. Spending off-site financial contributions in lieu of on-site affordable housing

13.1 The Council will use the financial contributions to fund projects and initiatives that will increase the provision and availability of affordable housing across Sefton. This will prioritise the provision of affordable homes in the local area if possible, with the fundamental aim being the creation of mixed and balanced communities that accords with Policy HC1 of the Local Plan and paragraph 63 of the NPPF.

13.2 The order of preference for prioritising the spending of section 106 contributions for affordable homes as:

- **First Preference**
The ward in which it was secured
- **Second Preference**
The settlement in which it was secured
- **Third preference**
A settlement adjacent to that in which it was secured
- **Fourth preference**
Elsewhere in Sefton

13.3 This is to ensure that the affordable housing is provided close to where the need arises and continues to provide mixed communities. It provides flexibility to prevent monies being secured without the ability to spend it.

What it will be spent on?

13.4 The Council will look at the best approach at spending commuted sums in each area to achieve maximum benefits. This may include using any contributions:

- On other sites that the applicant has control over to increase the delivery of affordable homes
- On Council owned site provided either by the Council or in partnership
- To bridge a funding gap on other development sites where the full policy compliant affordable housing can't be met
- To go into a Local Affordable Housing Delivery Fund (or similar) managed by the Council that Registered Providers can bid for, subject to criteria, to deliver affordable homes
- To help bring back vacant homes back into use if they will be subsequently secured for affordable homes

13.5 The Council will identify, on an ongoing basis, subject to separate local consultation, what is the best approach in each local area to maximise the delivery on local affordable housing need. The Council intend to publish these identified local priorities so that local members and residents, developers and social housing providers will know what any financial contributions will be used for.

When it will be spent?

13.6 The aim is to identify projects and spend any section 106 contributions for affordable housing as quickly as possible after receipt. However, it will often be difficult to do this due to (a) a lack of sufficient sites that are ready to be developed with short notice; and (b) in some instances the section 106 contribution may not be large enough to fund any provision on its own. It will often be required to pool a number of financial contributions to provide a large enough fund to provide a meaningful amount.

13.7 The financial contribution will be identified for spend within 5 years of receipt of the full amount (i.e. when all phased payments have been received). Within this it would be expected that a minimum of three years will be allowed in order to identify projects within the first two preferences areas (as identified at paragraph 12.2 above). After this period projects within the third and fourth preference areas will be considered.

When will the payment be required?

13.8 The Council recognises that a financial contribution secured through a section 106 can impact on the viability of a development if it all has to be paid up front. The Council will therefore allow payments to be staged when the total cost is above £100,000. The Council will implement the following stage payments to be made in relation to section 106 contributions⁶:

<£100,000	All within 60 days of commencement
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⁶ This payment schedule refers to the total amount of section 106 contributions, including other infrastructure improvements, e.g. education, open space.

£100,000 to <£250,000	50% within 60 days of commencement 50% 12 months after commencement
£250,000 to <£500,000	33.3% within 60 days of commencement 33.3% 12 months after commencement 33.4% 24 months after commencement
Over £500,000	25% within 60 days of commencement 25% 12 months after commencement 25% 24 months after commencement 25% 36 months after commencement

How it will be monitored?

13.9 The Council will publish a record of how much it has received in financial contributions for affordable housing (and other contributions) through section 106 agreements. This will be included within the section 106 monitoring report published by December each year. This report will also set out how the contributions have been spent, including how many affordable homes have been secured.

14. Demonstrating a Lack of Economic Viability

Part 9 of Policy HC1 states

Affordable and/or special needs housing will be provided in accordance with this policy unless a robust assessment of a scheme's economic viability confirms that this cannot be achieved.

14.1 Where an applicant seeks to depart from the policy position based upon economic viability, the Council will require a full financial assessment to be submitted by the applicant. It is the responsibility of the applicant to submit sufficient information to clearly and unequivocally demonstrate how the provision of the full affordable housing requirement would impact on the deliverability of the site. In this situation the applicant should clearly indicate either that a proportion of the policy compliant affordable housing can be provided (and what proportion by percentage and dwelling numbers), or if no provision can be made.

14.2 The submitted information will be robustly and independently appraised by the Council's retained economic viability consultants. The applicant will be required to meet the full cost of this work, including any meetings that are required. Once the relevant information has been submitted to the Council a quote for the appraisal will be provided. The Council will only instruct its economic viability consultants to undertake this work once payment has been received.

14.3 Viability assessments submitted by the developer in support of the removal, or the reduction of planning obligations will be published in full on the Council's website, unless exceptional circumstances are justified by the developer and agreed by the Council. This will also apply to any appraisal of viability assessments undertaken by the Council's retained viability consultants.

14.4 In the exceptional circumstances where it is agreed not to publish the viability assessment in full, the developer shall be asked to produce two versions of the report, namely one containing agreed commercially sensitive information but not available for public inspection, and a second version of the report with the agreed commercially sensitive information excluded for public inspection. In this regard, the Council's retained viability consultant, in appraising commercially sensitive information, will similarly need to produce two versions of the report (at a cost to the applicant).

14.5 If the Council accepts that a lesser amount of affordable housing is necessary to make the development viable and deliverable, the remaining amount of affordable housing should still meet the tenure split as set out in section 8 above.

14.6 Where the Council accepts that a lesser number of affordable homes due to viability issues, then it will consider granting permission for a two-year period, rather than three years. It will do this on a case-by-case based on the specific circumstances of each proposal.

14.7 In some instances where the Council accept a reduced number of affordable homes, due to viability, the Council will also consider including an overage clause within a section 106 agreement. This will only be considered for large housing developments (i.e. 100 homes or more), or those to be delivered in a phased manner, which would be expected to take a number of years to complete. The overage clause would seek to ensure that if market conditions have improved sufficiently at a specified future point (such as at completion), the affordable housing policy position would be met. This would be secured through a financial contribution and will be subject to an updated viability appraisal, paid for by the applicant/developer. The decision to include an overage clause within a section 106 agreement will be made on a case-by-case basis taking into account issues such as:

- The reduction in the amount of affordable homes
- Whether the proposal has other significant community or regeneration benefits
- The level of affordable housing need in the local area
- Whether there are any other planning obligations secured

14.8 Whilst the delivery of affordable homes has been identified in the Local Plan as a key requirement, there may be other infrastructure requirements that will have to be provided through development. These could be highways, education, health, recreation or environmental improvements. If a lack of viability requires a choice to be made between affordable homes and other infrastructure improvements, the Council will make that decision on a case-by-case basis. The decision will be based on the specific needs of the site and the local area.

15. Vacant Building Credit

Part 5 of the policy States:

Proposals that involve the re-use of a vacant building or where it is demolished and replaced by a new building, will receive a financial credit equivalent to the existing gross floorspace (of relevant vacant buildings) when calculating any affordable housing contributions.

15.1 Vacant Building Credit (VBC) was introduced by the Government with the aim of stimulating the development of vacant buildings on brownfield sites. Vacant Building Credit offers developers a financial credit based on the existing gross internal floor area of any vacant building on the development site. However, this will not apply to a building that has been deemed abandoned.

15.2 In order to qualify as a vacant building, the entire building must be demonstrated to be vacant. Where a building is partly occupied it will be deemed ineligible for the vacant building credit. It is a vacant building credit, not a vacant floorspace credit. The credit is only applicable to relevant vacant buildings; the Council will not accept for example sheds and non-permanent buildings as being relevant for the purposes of calculating a vacant building credit.

15.3 If VBC is being sought a Vacant Building Credit Statement must be submitted alongside the relevant planning application in which a reduced affordable housing contribution is being sought.

15.4 Within this statement the developer will need to submit the following information:

- Evidence that any referenced building is a 'Vacant Building'. A building will not be considered as 'vacant' if the building has been in continuous use for any six months during the last three years up to the date of the planning application is validated. The building must also be vacant at the time of the time the application is determined (the applicant will be required to (re)confirm this at the date of determination or as close as possible to that date).
- Evidence a building on site is not an 'Abandoned Building' or vacated solely for the purpose of redevelopment. The onus will be on the applicant to demonstrate this. The four factors the Council will take into account are:
 - The physical condition of the building;
 - The length of time that the building had not been used;
 - Whether it had been used for any other purposes; and
 - The owner's intentions.
- Information on the existing Gross Internal Floor Area (GIFA) against the proposed GIFA. GIFA is the area of a building measured to the internal face of the perimeter walls at each floor level. We will use the Royal Institution of Chartered Surveyors' (RICS) definition of GIFA for assessing VBC.

15.5 If we deem Vacant Building Credit applies to the proposed site, the information on floor space will inform the reduction in the level of affordable homes.

15.6 The Council will determine on a case by case basis whether a building is vacant or abandoned. As is commonly the case with outline planning applications it may not be clear what the actual number of dwellings, or the size of those dwellings, may be. Therefore it will be difficult to quantify what vacant building credit will be applicable. Where the local planning authority agrees that the VBC may be applicable, the applicant will be expected to enter into a section 106 Agreement at the outline stage to enable the matter to be deferred to a later stage when the relevant details of the scheme have been finalized. If the VBC is applicable to the proposed site, the information on floor space will inform the level of affordable housing contributions.

15.7 The Council will apply the following formula for calculating the reduction in affordable homes due to the vacant building credit:

Proposed gross internal floorspace minus Existing gross internal floorspace (= increase in gross internal floorspace) divided by the proposed gross internal floorspace multiplied by the full affordable housing requirement = new affordable housing contribution

Worked examples of Vacant Building Credit Calculation

Example 1

A development is proposed on the site of a vacant building for a total of 40 homes. Policy HC1 requires 30% affordable housing which equates to 12 affordable homes.

Proposed gross internal area of 40 homes = 4,000m²

Existing gross internal area of vacant building = 1,000m²

Increase in internal area = 3,000m²

Proposed gross internal floorspace [4000] – existing gross internal floorspace [1000] = Increase in internal area [3000] / Proposed internal area [4000] x affordable home requirement [12] = new affordable housing contribution

3,000/4,000 x 12 = 9 Affordable Homes

Therefore, the Vacant Building Credit will reduce the affordable housing on this proposal from 12 to 9.

Example 2

A development is proposed on the site of a vacant building for a total of 70 homes. Policy HC1 requires 30% affordable housing which equates to 21 affordable homes.

Proposed internal area of 70 homes = 8,400m²

Existing internal area of vacant building = 9,000m²

Increase in internal area = NIL (a reduction of 600m²)

Proposed gross internal floorspace [8400] – existing gross internal floorspace [9000] = Increase in internal area [0] / Proposed internal area [8400] x affordable home requirement [21] = new affordable housing contribution

0/8,400 x 21 = 0 Affordable Homes

Therefore, the Vacant Building Credit will reduce the affordable housing requirement on this proposal from 21 to nil.

Example 3

A development is proposed on the site of a vacant building for a total of 300 homes. Policy HC1 requires 30% affordable housing which equates to 90 affordable homes.

Proposed internal area of 300 homes = 30,000m²

Existing internal area of vacant building = 3,000m²

Increase in internal area = 27,000m²

Proposed gross internal floorspace [30000] – existing gross internal floorspace [3000] = Increase in internal area [27000] / Proposed internal area [30000] x affordable home requirement [90] = new affordable housing contribution

27,000/30,000 x 90 = 81 in Affordable Homes

Therefore, the vacant building credit will reduce the affordable housing requirement on this proposal from 90 to 81.

15.8 It is important to note that the reduction of the total affordable housing requirement through the implementation of the vacant building will not affect the tenure split the Council will expect within the affordable homes – see section 8.

15.9 Prior to the calculation and application of any VBC the Council and the applicant must agree the level of affordable housing that should be provided, including any reduction due to viability. The VBC (if applicable) will then be applied.

16. Content of section 106 agreements

16.1 A Section 106 agreement is a legal agreement between the developer / landowner and the local planning authority, made under Section 106 of the Town and Country Planning Act 1990 (as amended). It is the means by which the local planning authority secures, amongst other things, and controls the affordable function of the housing provided on development.

16.2 The Section 106 agreement will normally cover (but is not limited to) the following points:

- A description of the affordable/specialist units and the property type and tenure mix if appropriate;
- The location (i.e. which units) of the affordable housing and supported housing provision within the site;
- The phasing of on-site affordable housing provision within the overall scheme to ensure that affordable housing units are developed at an agreed rate in relation to the market housing;
- A property marketing mechanism in respect of the affordable units;
- Arrangements for the involvement of Registered Providers or any other appropriate agency;
- 'Mortgagee clauses' to define the conditions attached to the affordable housing, should the mortgagee exercise their power of sale;
- Occupancy controls;
- Eligibility requirements;

- Any Council nomination rights in respect of rented units / units for sale;
- If appropriate the mechanism to secure and spend a financial contribution towards off-site affordable homes
- A mechanism to assess or change the scope of the S106 Agreement.
- Recycling arrangements where staircasing up to full ownership takes place.
- Contingency arrangements in case of unforeseen issues with securing and retaining a Registered (Social Housing) Provided

16.3 The section 106 agreement may also cover other issues not related to affordable or supported housing.

16.4 Applicants are advised to provide a Heads of Terms with their planning applications to ensure that their application can be dealt with as speedily as possible. The Heads of terms should identify areas that the applicant wishes to amend/clarify.

17. Supported Housing

Parts 6 and 7 of Policy HC1 states:

Special needs housing can be substituted for up to 50% of the site affordable housing contribution on a bedspace for bedspace basis.

Where extra care or sheltered housing is proposed to be substituted for affordable housing, this must meet the tenure requirements set out in parts 2 and 4 of this policy.

17.1 Supported housing (described as special needs housing in the Local Plan) is intended for people with a physical disability, frail elderly people, young vulnerable people, people with a learning disability, a mental health problem or severe sensory disability. It does not include the provision of care homes or housing for elderly people.

17.2 Supported housing may be substituted for up to 50% of the site affordable housing requirement. Whilst the policy stated this would be based on a bedspace for bedspace basis, in line with the recommendations of the 2019 SHMA this will now be based on a one for one basis. The remainder of the affordable housing on the site must meet the tenure split as set out in section 8 above.

17.3 If the Council accepts the substitution of up to 50% of the required affordable housing as supported housing, this will be secured through the Section 106 Agreement. This will ensure that the supported housing is retained as such in perpetuity or, if not, it is made available as affordable housing.

17.4 If an applicant wishes to substitute supported housing for up to 50% of the required affordable housing the application must be supported by a statement that identifies the type of supported housing that is intended to be provided. If the supported housing is to be an affordable product, and an RP is expected to take on the management of this, then the applicant must engage with RPs at an early stage to ensure the accommodation, including communal facilities, is acceptable.

Housing for Older People

17.5 Care homes and housing for older people (generally over 55s) are not classed as special needs housing (unless the residents are also classed as having specialist needs) for

the purposes of Local Plan policy HC1 part 6. Therefore, they cannot be substituted for affordable housing. Paragraph 8.18 of the Local Plan sets out that housing for people with a physical disability, frail elderly people, young vulnerable people, people with a learning disability, a mental health problem or severe sensory disability does meet the criteria to reduce the amount of affordable housing on a scheme by 50%.

17.6 Care homes and housing for the elderly are often classed under use class C3 (dwellinghouses) and are subject to the policy to provide affordable housing. The Council expects the same policy approach, in terms of the level of affordable homes, tenure split and mix, to apply to such schemes. Furthermore, a recent High Court Decision⁷ made it clear that, unless specifically expressed in the Local Plan policy, a local authority can apply their affordable housing policy to all schemes that create new dwellings.

17.7 In some instances the format and management of a care home proposal may result in it being considered as within Class C2 (Residential Institution). For the Council to consider such proposals as Class C2 a number of conditions must be met. These are:

- The accommodation must be restricted to households where at least one member is in need of care and, in the case of accommodation for older people, aged 55 years or over;
- Each resident in need of care must commit to a minimum care package that provides the equivalent of at least 2 hours of weekly personal care;
- The proposal should include a number of communal facilities that demonstrate that the development, when taken as a whole, is clearly intended to provide residential accommodation to people in need of care. This may include, but not be restricted to:
 - Communal lounge
 - Kitchen/dining room
 - IT room/library
 - Community room
 - Staff areas and office
 - Treatment rooms
 - Hairdressing salon

17.8 The individual units within the proposal can be self-contained (i.e. have a kitchen, bathroom, separate entrance, lockable front door etc.) as the scheme as a whole will be considered to determine what Use Class it is, taking into account the points above. Accommodation that is determined to fall within Use Class C2, but is self-contained, will contribute to the Council's identified housing requirement. However, just because a unit is classed as C2, it does not negate the need to apply the Council's affordable housing policy. The key test is whether the unit can be described as a dwelling.

Accessible and Adaptable Housing

Part 2 Policy HC2 states:

In developments of 50 or more dwellings, at least 20% of new market properties must be designed to meet Building Regulation Requirement M4(2) 'accessible and adaptable dwellings'.

17.9 The aim of this policy is to ensure that there is a supply of new dwellings that are able to meet the long-term needs of people who currently have, or may develop during the course

⁷ [Rectory Homes Limited v Secretary of State for Housing, Communities and Local Government. Case Number: CO/4682/2019](#)

of their lifetime, mobility issues. It is preferential to enable people to remain in their own home, subject to adaptations, rather than having to move into specialist accommodation.

17.10 Government guidance⁸ sets out that

‘optional requirement M4(2) will be met where a new dwelling makes reasonable provision for most people to access the dwelling and incorporates features that make it potentially suitable for a wide range of occupants, including older people, those with reduced mobility and some wheelchair users. Reasonable provision is made if the dwelling complies with all of the following:

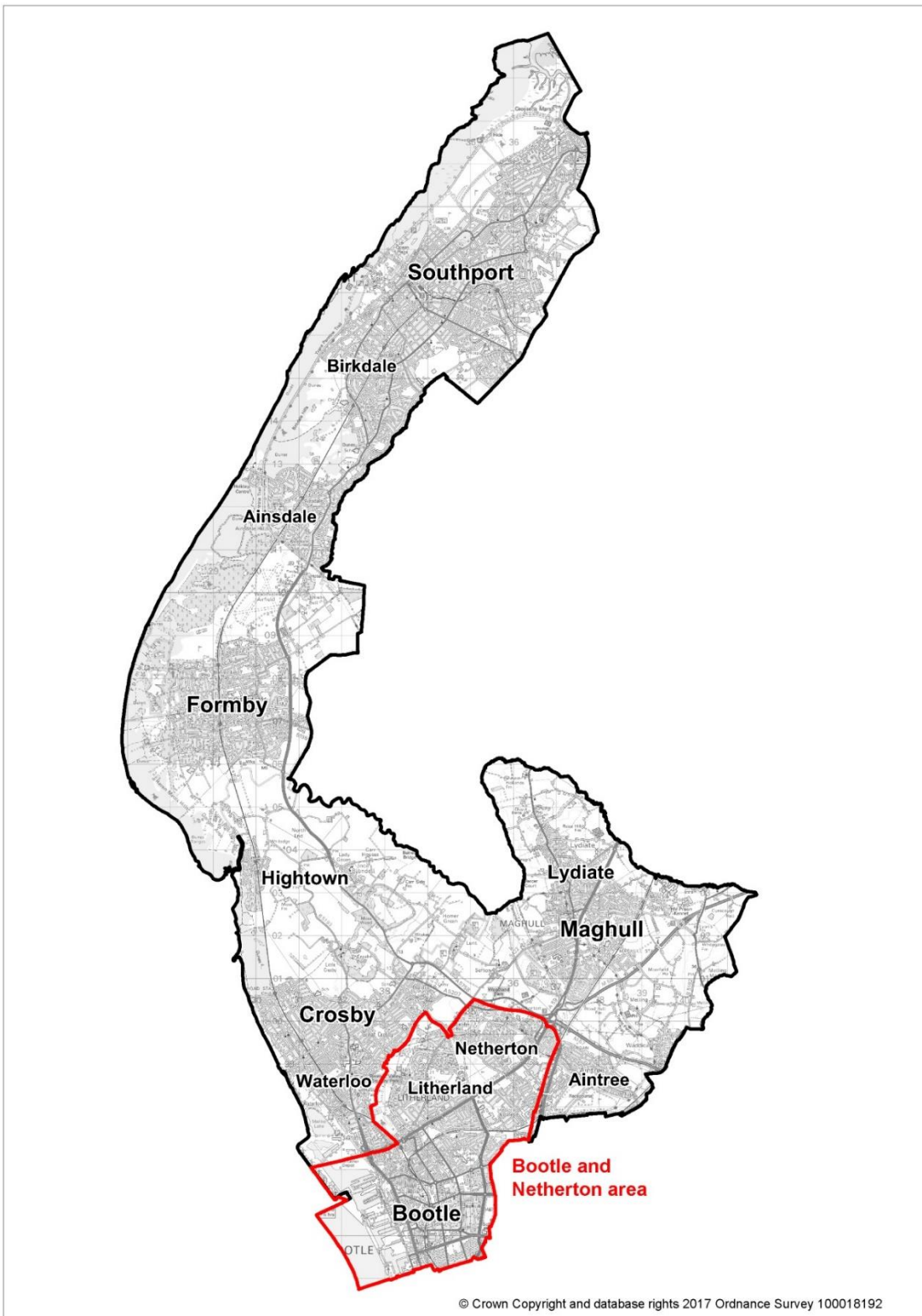
- a. Within the curtilage of the dwelling, or of the building containing the dwelling, it is possible to approach and gain step-free access to the dwelling and to any associated parking space and communal facilities intended for the occupants to use.*
- b. There is step-free access to the WC and other accommodation within the entrance storey, and to any associated private outdoor space directly connected to the entrance storey.*
- c. A wide range of people, including older and disabled people and some wheelchair users, are able to use the accommodation and its sanitary facilities.*
- d. Features are provided to enable common adaptations to be carried out in future to increase the accessibility and functionality of the dwelling.*
- e. Wall-mounted switches, socket outlets and other controls are reasonably accessible to people who have reduced reach.’*

17.11 The guidance sets out detailed technical requirements for how the above points can be met.

17.12 If a proposal requires 20% of the market homes to meet the ‘accessible and adaptable dwellings’ requirement, the applicant should identify, in a design and access statement or similar, which units will meet this requirement. Applicants are advised to submit this information with their application to avoid delays. It is expected that an assessment of a home against these standards will require an appraisal at the planning application stage and post construction.

⁸ The Building Regulations 2010, Access to and use of buildings, Approved Document M – Volume 1 dwellings (HM Government, 2015 incorporating 2016 amendments).

Appendix A
Bootle and Netherton Area for the purposes of Policy HC1 parts 3 and 4



Bootle & Netherton area for the purpose of Policy HC1 – specifically the electoral wards of Derby, Ford, Linacre, Litherland, Netherton & Orrell and St Oswald