

DMH1 consultation with members: officer response

- 1.1 The practice note is a public document setting out an agreed Authority position to interpreting Development Management Policy (DMP) DMH1. It is to be used as a tool at pre-application stage or when negotiating a planning application to ensure the most appropriate outcome is reached in applying a consistent approach to the delivery of policy DMH1. It is not new local plan policy or supplementary planning guidance. It can be referred to as a material consideration but it would only attract little weight when determining planning applications or at appeal. Members could approve this practice note and then seek to adopt it as an SPD, subject to formal consultation.
- 1.2 Officers recommended Planning Committee members defer the matter to the Local Plan Steering Group and this was agreed to at Planning Committee on 16th April 2021.
- 1.3 The approach set out in the practice note is focused on households meeting their own identified housing need with reference to available evidence (DMP 6.23 and 6.24).
- 1.4 It is acknowledged in the DMP that this type of affordable housing is classed as intermediate housing because these properties can be sold on or rented after 3 years by the first owner and occupant to people who are not in housing need but who satisfy the local connection criteria. The ongoing value of these properties will be higher than that provided by registered social housing providers but para 6.48 of the DMP maintains that the size of these properties will be determined by the original applicant's household housing need with some scope for flexibility up to a maximum of 97m².
- 1.5 Households meeting their own identified housing need have recently been challenging the size constraints set out in policy DMH1 at planning application stage and subsequently at appeal. Applicants are proposing local needs affordable housing of a size greater than their identified need. Three planning appeals determined in 2021 supported the Authority's approach in policy DMH1 to restricting the size of an affordable house in line with the applicant's identified need.¹
- 1.6 The practice note does not apply to social housing or developers building affordable housing. Households building affordable housing to meet their own identified needs have less stringent occupancy requirements attached and it is acknowledged in the DMP that this type of intermediate housing may be afforded some flexibility in their size. No such flexibility is referred to in the DMP for other types of affordable housing.
- 1.7 Policy DMH1 sets maximum space standards to limit the size and, as a direct consequence, the affordability of affordable housing. These standards ensure affordable housing is of a size that reflects the need in the local community and the value remains affordable in perpetuity. The space standards are derived from the Technical housing standards – nationally described space standard². Officers are not relying on DMP para 6.48 but on the policy itself which states 'housing will be permitted provided that: need and size criteria are met' (DMP 2019, policy DMH1).
- 1.8 The purpose of the Practice Note is to provide an acceptable level of flexibility without compromising the purpose of the policy. A recent Inspector's Decision³ stated,

¹ NP/DDD/1020/0941 Appeal ref APP/M9496/W/21/3277640
 NP/DDD/1220/1217 Appeal ref APP/M9496/W/21/3277313
 NP/DDD/0221/0150 Appeal ref APP/M9496/W/21/3275813

² [Technical housing standards – nationally described space standard \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/84444/technical_housing_standards_-_nationally_described_space_standard.pdf)

³ APP/M9496/W/21/3275813 Land adjacent to the Sports Field, Taddington, Derbyshire SK17 9TZ

'The limit on sizes set by the policy is not an opportunity to instantly go to the maximum allowable, and the possibility that the applicant could start a family in the future is not a justifiable reason to propose the maximum size, as it is just that, a possibility.'

- 1.7 By setting out what flexibility is acceptable it removes the need for the applicant to submit justification for a property up to that size (with the exception of that which is based on landscape/heritage character). Applications for affordable dwellings above the sizes set out in the practice note will need strong justification for why they should be approved. It is not the purpose of the Practice Note to set out what these material considerations are. It is for the applicant to set out what they consider the material considerations to be and for the Authority to assess them on their own merit.
- 1.8 The support given to the Authority at appeal to resist proposals for affordable housing up to the maximum of 97m² which fail to demonstrate a clear housing need, demonstrates policy DMH1 can be effectively applied to restrict affordable housing to an applicant's identified need. All reasons for refusal included reference to policy DMH1, which links size to need. The DMP specifically aims to go further than Core Strategy Policy HC1 on this point to correct a trend that has been evidenced.
- 1.9 With regards to the on sale of this type of affordable housing, DMP para 6.48 acknowledges that value is more difficult to control in intermediate housing and so maintaining control on size will remain important. In these cases we envisaged scope for greater flexibility up to 97m² and the flexibility referred to is what the practice note now aims to clarify.
- 1.10 The flexibility referred to in DMP para 6.48 is to support genuine identified need. It is acknowledged that the interpretation of DMP policy DMH1 by officers has not been consistent with the purpose or intent of the policy when it was introduced in 2019. The need for a more consistent approach to the interpretation of the policy is a recent development in response to applicants' persistence in applying for the maximum sized property allowance, regardless of need evidenced. This has led to more refusals than anticipated, however applicants have been resubmitting planning applications to greater reflect their identified need, which in turn is improving the variety of property size available in the locality. Officers now hope that clarifying where flexibility lies will lead to a greater number of approvals.
- 1.11 Private developers meeting a local need (DMP para 6.25) are required to demonstrate there is a genuine need through a housing needs survey. DMP para 6.23 states that the evidence should justify the size and type proposed. Again, need and size are linked.
- 1.12 Whilst members may see affordable housing as essential for the health and population profile of the community at large and of the National Park, this is the National Park's duty. National Park purposes to conserve and enhance the natural beauty, wildlife and cultural heritage are given greater weight in law and in planning in accordance with the Sandford Principle. Appeal decisions have cited impact on landscape and heritage, which demonstrates support for these as reasons for refusal.
- 1.13 It is important that applicants understand the intent of the policy, which is to provide a range of house sizes to meet the needs of the local community, and are aware of the limitations to the size of property the policy imposes and any subsequent extensions. We will review our current procedures in giving advice on affordable housing to ensure this is clear from the outset.
- 1.14 As part of the Local Plan Review, DMP policy DMH1 will be reviewed. We will look at the application of the policy in respect to individuals applying for affordable housing, in particular the frequency of applications for properties up to a maximum of 39m².