



<b>Report of</b>	<b>Meeting</b>	<b>Date</b>
Director of Development, Preston City Council	Central Lancashire Strategic Planning Joint Advisory Committee	30 January 2017

## AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT

### PURPOSE OF REPORT

1. To update members on progress on the preparation of an updated SPD

### RECOMMENDATION(S)

2. The Joint Advisory Committee is recommended to note the contents of this report.

### EXECUTIVE SUMMARY OF REPORT

3. This report provides an update on the replacement to the currently adopted Affordable Housing Supplementary Document resulting from changes in legislation and other requirements in relation to the provision of affordable housing.

### REASONS FOR RECOMMENDATION(S)

4. To advise members of the work coming forward.

### ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5. N/A

### BACKGROUND

6. The current Central Lancashire Affordable Housing Supplementary Document was adopted in October 2012. A number of changes have previously been identified that make it necessary to produce a replacement SPD. These were in particular the introduction of Starter Homes in the Housing and Planning Act 2016; the year on year reduction in social and affordable rents on property rented by registered providers (housing associations) by 1% p.a. for 4 years from April 2016; and the Court of Appeal decision on thresholds following the successful high court decision in favour of West Berkshire and Reading Councils against the Secretary of State's threshold for site size in relation to the provision of

affordable housing. There are also issues arising in relation to viability, potentially resulting the introduction of 'clawback' from developers.

7. There have been some delays in progressing this whilst awaiting further regulations for the provision of starter homes. However, the Government has indicated in the Housing White Paper that it does not intend to introduce a statutory requirement to produce starter homes at present.
8. A draft SPD has been produced and is attached to this report for members information. This draft SPD will be subject to consultation and approval for that will have to be sought through each authority.
9. The main amendments to the current SPD are:
  - Amendments to the definitions of affordable housing in the SPD to link that directly to the Government's definitions of affordable housing for planning purposes in the NPPF, which will itself be subject to review.
  - Identification of the circumstances in which a local target could be applied for developments of between 6 and 10 dwellings which would now be subject to the national threshold of 10 dwellings.
  - Simplification of the calculation for commuted sum contributions
  - Introduction of a section on "overage" provisions.
10. A copy of the draft SPD is attached for information.

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
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**CENTRAL LANCASHIRE**

**AFFORDABLE HOUSING SPD  
REPLACEMENT DRAFT  
DECEMBER 2017**

## **A: Introduction**

1. Supplementary Planning Documents (SPDs) were introduced by the Planning and Compulsory Purchase Act 2004 as part of the reforms to the planning system. Although not forming part of the statutory development plan, one of the functions of an SPD is to provide further detail on policies and proposals within the development plan. SPDs must be consistent with national and regional planning policies as well as the policies set out in the development plan.
2. This Supplementary Planning Document has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the National Planning Policy Framework. The SPD does not seek to allocate land but is to be considered alongside Policy in the Core Strategy and Site Allocations Development Plan Documents (DPDs). The SPD guidance should therefore be taken into consideration from the earliest stages of the development process of any site, including any purchase negotiations and in the preparation of development schemes.
3. The purpose of this SPD is to provide advice on how the Councils' affordable housing policy, as set out in DPDs, is to be implemented. This includes guidance on the range of approaches, standards and mechanisms required to deliver a range of affordable housing to meet local needs.
4. Once adopted, this document should be afforded significant weight as a material consideration in determining planning applications.

## **B: Planning Policy**

5. The National Planning Policy Framework states that supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens of development.
6. Supplementary Planning Documents are documents that add further detail to the policies in the Local Plan<sup>1</sup>. Any policies contained in a supplementary planning document must not conflict with the adopted development plan<sup>2</sup>.
7. The relevant planning policy is Policy 7 of the Central Lancashire Core Strategy. The purpose of the policy is to enable sufficient provision of affordable and special needs housing through the means set out in the policy. In particular the targets are; 30% affordable housing on market housing schemes in the urban areas of Preston, South Ribble and Chorley; 35% in rural areas on sites in or adjoining villages which have, or will have, a suitable range of services; 100% on any rural exception sites, including those in the Green Belt.
8. The 35% requirement will apply to any development, other than on rural exception sites, that falls within locations in categories (e) and (f) in Policy 1 of the Central Lancashire Core Strategy.

## **C: Thresholds**

9. The minimum site thresholds below which an affordable housing contribution will not be sought are set out in Policy 7 of the Central Lancashire Core Strategy.
10. Following the Court of Appeal judgment on West Berkshire and Reading Councils challenge to the Secretary of State's introduction of a national threshold<sup>3</sup>, Planning Practice Guidance has been amended in May 2016<sup>4</sup>. The Guidance now is that contributions should not be sought from developments of 10 or fewer dwellings and which have a maximum combined gross floorspace of no more than 1,000 square metres.
11. However, the Court of Appeal did not exclude the possibility of other, lower, thresholds being appropriate. The following process should be applied to determine whether the national threshold or Core Strategy threshold applies.

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<sup>1</sup> NPPF Annex 2: Glossary

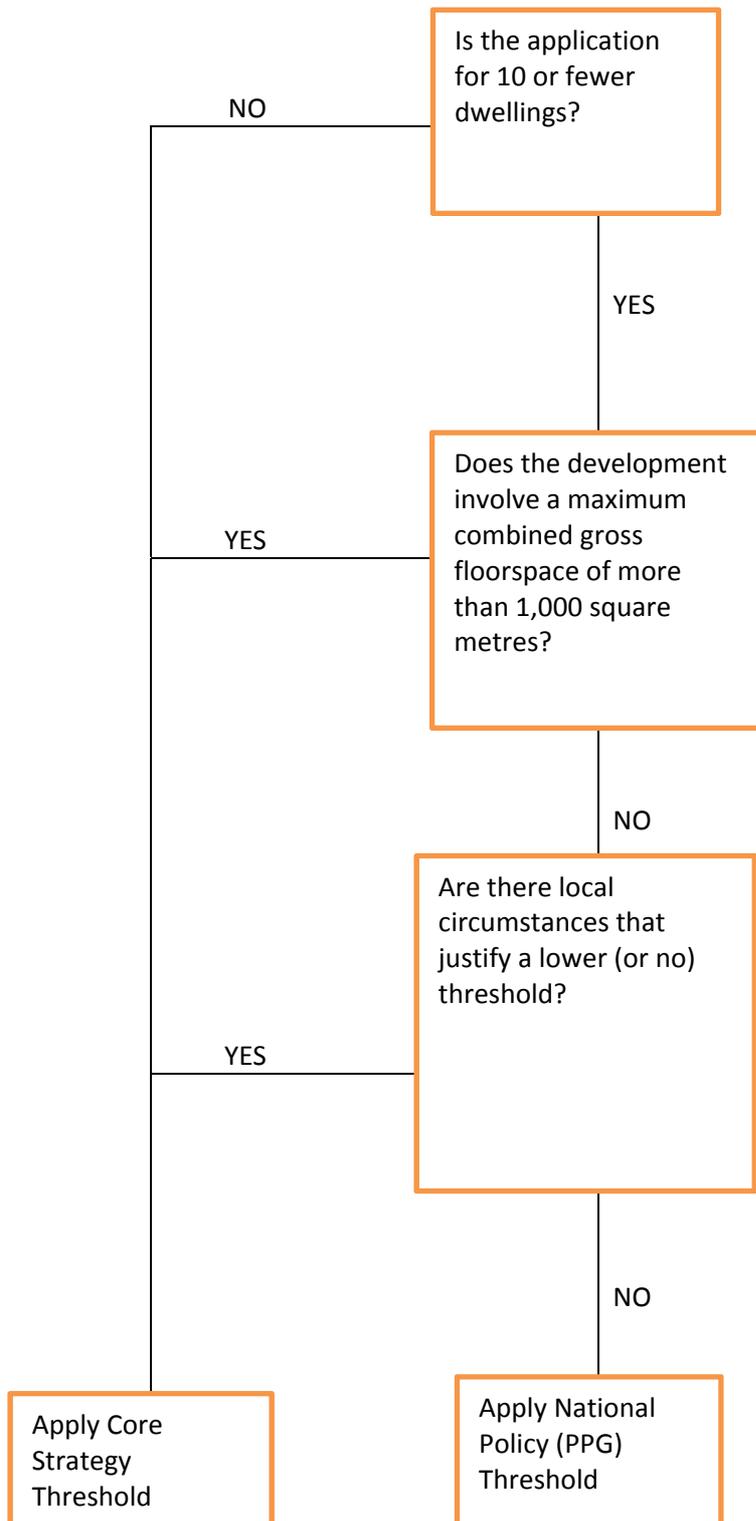
<sup>2</sup> Regulation 8(3), The Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>3</sup> Secretary of State for Communities and Local Government - and - (1) West Berkshire District Council

(2) Reading Borough Council: [2016] EWCA Civ 441

<sup>4</sup> Paragraph: 031 Reference ID: 23b-031-20160519

The national threshold will not affect sites that are not in the rural area as the Core Strategy minimum threshold at 15 dwellings is higher. For the avoidance of doubt, sites that are in the North West Preston Strategic Location are considered as not being in a rural area.



**D: Definitions**

12. Housing which is to be regarded as affordable housing for the purpose of Policy 7 of the Central Lancashire Core Strategy is as defined in Annex 2 of the National Planning Policy Framework, subject to amendment by government from time to time.

**E: Delivery of Affordable Housing**

13. Properties provided by developers on-site as affordable housing should be available to those in housing need, initially and in perpetuity, the latter is particularly important in the case of rural exceptions sites where opportunities to provide affordable housing may be restricted.
14. People in housing need comprise those nominated by the Central Lancashire Councils from their Housing Needs Register or similar mechanism in line with its published Allocations Scheme (Housing Act 1996 Section 167 as amended).
15. The choice based lettings scheme in Central Lancashire is SelectMove<sup>5</sup>. This is the mechanism by which affordable homes will be allocated. The exceptions to this are where affordable housing schemes have been provided for a particular special needs group such as disabled or elderly people, and the selection process for residents is approved by the Council, or where occupancy is limited by condition or by the terms of a Section 106 obligation. The allocation conditions of the section 106 will be based around the housing needs for the area.

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<sup>5</sup> <https://www.selectmove.co.uk/>

16. Affordable housing will be secured in perpetuity. The Councils will seek 100% nomination rights on the first lets/sales of all affordable homes reducing to 75% for subsequent relets.
17. The cost of affordable housing, whether rental levels or shared ownership costs, should be affordable to eligible occupiers. The Central Lancashire Strategic Housing Market Assessment 2009 indicates that in order to access market housing for purchase the cost of property should be no more than 3.5 times the gross household income for a single income household or 2.9 times gross household income for a two income household (net of any equity that the household may already hold). For market renting the threshold is 25% of gross household income and for shared equity rent and mortgage repayments total no more than 25% of gross household income.
18. Any household whose income falls below these thresholds is in need of affordable housing. Councils will, before granting planning permission, need to be satisfied that any agreement reached between a developer and Registered Provider for the on-site provision of affordable housing, will ensure that the rental levels and Intermediate (shared ownership) costs will be affordable against local income levels. Service charges for dwellings should be set at appropriate levels to manage and maintain the properties to Registered Provider standards and to meet any on-site requirements. They should be fully transparent in their contents and calculation methods.

### ***Rented Properties***

19. Rents charged for affordable housing, by Registered Provider or other managing bodies, must be in line with the Housing England (or successor body) rent setting policies.

### ***Intermediate Properties***

20. The target for general needs Intermediate home ownership costs in Central Lancashire will be set at approximately 30% of gross household income to cover mortgage costs and any "rental charge." This equates to a figure which is slightly higher than the Government's indicative figure (which is expressed

as a guideline) to allow for the lower running costs (e.g. heating and repairs etc) expected of new build properties compared with the general housing stock. Properties must be offered for sale with purchase shares starting at 30% of value and rental charges on unsold equity at less than or equal to the Housing England ceiling of 2.75% pa.

21. In addition, to keep overall valuations within acceptable levels, the design standards for intermediate home ownership properties should be equivalent to the standards used by the Housing England to determine eligibility for Social Housing Grant (or any subsequent Housing England or regulator standards).

### ***On-Site Provision***

22. With regard to whether provision should be on-site, off-site or the subject of a financial contribution in lieu, the presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing. However, where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area. This requirement is consistent with NPPF.
23. The size of development should not be set artificially to reduce or eliminate the affordable housing requirement as set out in the Core Strategy and at pages 3 and 4 of this document, for example by sub-dividing sites or reducing the density of all or part of a site.
24. The latest SHMA evidence<sup>6</sup> indicates that a reasonable tenure mix for affordable housing across the Housing Market Area, where the product is priced at 80% of market cost, is 12% intermediate for sale and 88% social or affordable rented. As the discount sought is 33% it is considered that where an element of affordable housing is required, at least 70% of the affordable housing units should be for Social Rent or Affordable Rent, unless the Council is satisfied that an alternative mix meets an independently assessed proven need and agrees to such alternative provision. The evidence to support an

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<sup>6</sup> Central Lancashire Strategic Housing Market Assessment, GL Hearn, September 2017

alternative mix will need to be provided by the applicant/ developer at their own cost.

25. Where affordable housing is provided the mix in terms of dwelling tenure, type and size must be incorporated which reflect the site's characteristics and the development as a whole. The Councils will negotiate the exact tenure, type and size split on each site through pre-application discussions.
26. The provision of on-site affordable housing should be integrated into the layout of the development through 'pepper-potting' within private housing. Within flatted developments it is accepted that management and other requirements could mean floors, wings or whole blocks will generally be designated for affordable or market housing or that on larger developments affordable housing is likely to be provided in small clusters around the development.
27. The Councils expect that affordable housing provided on site will be subject to the same standards of finish and presentation as the open market housing i.e. it will be tenure blind. Such housing should comply with the requirements of the development plan and all relevant design and quality codes and standards set out by the Housing England or other relevant body, as well as relevant national and local guidance and standards.

#### ***Off-site Provision***

28. Whilst Government policy is to meet affordable housing requirements on site, the Councils recognise that it may not always be practical or suitable to deliver the amount of affordable housing set in Policy on a particular site. Reasons might include issues such as the small scale of a scheme, overall scheme viability, or poor public transport access.
29. The Councils also recognise that there are financial and regeneration benefits that can derive from the use of an off-site contribution.
30. The Councils will consider each scheme on its merits and may agree, in certain circumstances, to accept the payment of a "commuted sum" in lieu of the provision of additional affordable housing on a site. The timescales for commuted sums payments on each development will be made to benefit the Council and specified in the Section 106 Affordable Housing agreement.

31. In addition, where the calculations for the provision of affordable housing return a fraction of a home, such as 35% of 10 units = 3.5 affordable homes, the fraction (in this example 0.5 of an affordable home) can, be taken as a payment in lieu.
32. Normally, the Councils will accept up to a third of the affordable housing requirement as an off-site contribution, either in kind or as a financial contribution through a commuted sum. Preston has adopted policy to specify that a third of the affordable housing contribution i.e. 10% or 10.5% of the total housing on site, dependent on the affordable housing target, can be provided by means of a commuted sum.
33. Any agreed off-site financial contribution will be the equivalent of the discount applied to on-site provision, i.e. 33% of the open market value of the equivalent type of housing to that which would be provided as affordable housing on site. This is to be agreed between the developer and the Council before any commuted sum is offered.

**F: Viability**

34. Policy 7 of the Central Lancashire Core Strategy recognises that financial viability is a consideration in the delivery of affordable housing. Housing viability studies were carried out for the three Central Lancashire Authorities as part of the evidence base for the Core Strategy. Based on a residual development appraisal the studies concluded that the levels of affordable housing set out in Policy 7 of the Core Strategy were achievable with an acceptable return to the developer and landowner. Nevertheless, the study also concluded that there will be site-specific circumstances where achievement of the affordable housing proportions set out in Policy may not be possible. This should not detract from the robustness of the overall targets but the council will need to take into account specific site viability concerns when these are justified.
35. If there is any doubt about viability on a particular site, it will be the responsibility of the developer to make a case that applying the Council's affordable housing requirement for their scheme makes the scheme not viable. Where the Council is satisfied this is the case, the Council has a

number of options open to it including changing the mix of the affordable housing before needing to consider whether a lower level of affordable housing is appropriate. In individual scheme negotiations, the council will also need to consider the balance between seeking affordable housing and its other developer contribution requirements.

36. Where a developer or landowner considers that there are significant constraints sufficient to jeopardise or prevent them from meeting the Councils' affordable housing policy targets, this will need to be demonstrated by the submission of a suitable financial appraisal, which will be subject to testing by the Local Planning Authority at the developer's expense. The Councils will adopt an 'open book' approach to this assessment and the developer/landowner will be expected to provide all relevant financial and other information behind the appraisal to enable the Councils and/or an independent valuer on their behalf to assess the nature, extent and impact of the constraints upon the viability of the scheme.
37. The provision of affordable housing, whether on or off-site or via a commuted sum will be secured through an agreement under S106 of the Town and Country Planning Act 1990. Where affordable housing is to be delivered via a commuted sum, it is expected that the sum will be payable on commencement of the development, or other agreed timescale.

### ***Community Infrastructure Levy***

38. The Central Lancashire authorities all have adopted Community Infrastructure Levies in place. Affordable housing may be eligible for relief from the CIL payment in accordance with regulations 49-54 inclusive of the Community Infrastructure Regulations 2010 (as amended). Claimants must comply with the requirements set out in the regulations.

### ***Overage***

39. The viability of a scheme may change over time, particularly where development is phased over a number of years, and the affordable housing requirement as set out in the relevant S106 agreement may consequently change. The government's advice as set out in the Planning Practice Guidance is that planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so.

40. The Councils are aware of the appeal decision in relation to a scheme and S106 agreement at Poole Dorset<sup>7</sup>, in which a Planning Inspector determined that an overage requirement was contrary to the provisions set out in paragraph 10 of the government's *Section 106 affordable housing requirements: Review and appeal* guidance. This guidance, however, referred to time limited provisions in the Town and Country Planning Act 1990 and the guidance only applied to planning obligations entered into before April 2016. The Inspector also commented that overage clauses in S106 agreements may have a role to play where a development is likely to be delivered in a number of discrete and separate phases over a relatively long timeframe.
41. The Councils, therefore, consider it appropriate to seek an open book reassessment of viability:
- a) In the case of outline permissions with submission of a reserved matters application, or, where development is phased, at submission of reserved matters for each stage.
  - b) In the case of phased full permissions, before commencement of each phase of development.

In line with various appeal decisions by Planning Inspectors<sup>8</sup>, reassessment of viability will not be sought in schemes that involve a single phase of development.

42. Where such a reassessment indicates improved viability, the Councils will seek, where appropriate, an increase in affordable housing provision up to the requirements set out in policy.

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<sup>7</sup> Appeal Ref: APP/Q1255/S/15/3005876: Land to the rear of 14-24 Langley Road, Poole BH14 9AD, 29 May 2015

<sup>8</sup> APP/V2635/A/14/2217840, The Old Garage, St Edmund's Terrace, Hunstanton, Norfolk PE36 5EH, 8 October 2014,

APP/N0410/A/13/2207771, Meadow Cottage, Saltmarshe and Longridge, Bangors Road South, Iver, Bucks, SLO OAP, 31 March 2014,

APP/V2635/W/15/3004252, Former King's Lynn Silos Limited, South Quay, King's Lynn, Norfolk PE30 5DT, 15 June 2015,

APP/N0410/A/14/2228247, Former Inn on the Green PH, North Orbital Road, Denham Green, Buckinghamshire UB9 5NR, 12 February 2015.

## **G: Rural Exceptions**

43. In providing for affordable housing in rural communities the aim set out in the NPPF is to be responsive to local circumstances and plan housing development to reflect local needs. Clear independent evidence of an identified local need for affordable housing is a prerequisite to considering whether, in line with NPPF, allowing some market housing would facilitate the provision of affordable housing. Rural exceptions sites should provide 100% affordable housing as set out in Policy 7 of the Core Strategy. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
44. Rural exception sites should only be used for affordable housing in perpetuity. A Rural Exception Site policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities.
45. Ideally, homes should be built where there is good access to services, employment and other facilities, and the proposed site should lie within, or adjacent to, an established settlement. If not, the landowner or developer will need to show that the requirements of the potential occupants can be met without putting undue pressure on existing service provision or the physical environment.
46. Schemes are more likely to be successful with the involvement, support and knowledge of the local community. Furthermore, robust evidence of local housing needs via a local housing needs assessment is essential for any scheme to go ahead: the type, tenure and size of the affordable homes must meet an identified local need.

## H: Sustainability appraisal and habitats regulations assessment

47. Given the relationship between this SPD, the Core Strategy and the Site Allocations DPDs and the level of Sustainability Appraisal (SA) that these documents have undergone together with the anticipated absence of any significant environmental effects arising from this proposal, an independent SA of this Planning Framework SPD is not required. In addition, the Core Strategy has undergone a Habitats Regulations Screening Assessment to determine the likely significant effects of the plan on sites of international nature conservation importance. Given the SPD is in conformity with the policies contained within the Core Strategy, a full Screening Assessment of this SPD is not required.

## I: Monitoring and Review

48. The Councils will monitor the effectiveness of this guidance including Core Strategy key indicators and review as appropriate in the light of its performance and future changes in planning law, and policy guidance.

## J: Further Information

49. The SPD will primarily be implemented through the development management process and the determination of planning applications. Charges may apply for pre-application consultations; please see websites for details. Planning Officers will be pleased to provide advice and guidance on planning matters regarding affordable housing. They can be contacted on:

Local Authority	Website	Telephone	Email
Preston City Council	<a href="http://www.preston.gov.uk">www.preston.gov.uk</a>	01772 906 949	devcon@preston.gov.uk
Chorley Council	<a href="http://www.chorley.gov.uk">www.chorley.gov.uk</a>	01257 515 151	dcon@chorley.gov.uk
South Ribble Borough Council	<a href="http://www.southribble.gov.uk">www.southribble.gov.uk</a>	01772 421 491	planning@southribble.gov.uk

## APPENDIX 1: GLOSSARY

**Affordable Housing Definitions for planning purposes:** Annex 2 of the National Planning Policy Framework includes definitions of affordable housing for planning purposes. These may change from time to time so are not included here.

**DPD:** Development Plan Document; planning document produced under the Planning and Compulsory Purchase Act 2004 which sets out policy and has been subject to independent examination.

**Habitats Regulations:** The Conservation (Natural Habitats, &c.) Regulations 1994, (as amended)

**Housing England:** Housing England is an agency of Government and successor body to both the Housing Corporation and English Partnerships.

**Pepper-potting:** The dispersal of affordable housing units within residential developments to promote mixed communities and minimise social exclusion.

**Rural Exception Site:** A site that is within or adjoins existing rural communities which may be subject to policies of restraint, such as Green Belt, and which would not otherwise be released for housing, but may only be developed in order to provide affordable housing to meet local needs in perpetuity.

**SHMA:** Strategic Housing Market Assessment

**SPD:** Supplementary Planning Document; a planning document that provides further guidance on policy but does not set policy itself.

**Starter Homes:** Housing introduced by the government in the Housing and Planning Act 2016. The key characteristics are: aimed at young, first time buyers ( at

least one purchaser should be aged under 40); should be sold at a discount of at least 20% below market value; discounted price should be no more than £250,000. The NPPF may be amended to include starter homes in the definition.

**Tenure Blind:** Tenure blind development is development in which tenure is not evident from location or appearance.

<b>Registered Provider</b>	<b>Address</b>	<b>Tel</b>
<b>Adactus Housing Association Ltd</b>	Turner House, 56 King Street, Leigh, WN7 4LJ	01942 608715
<b>Community Gateway</b>	Deltic House, West Strand, Preston, PR1 8UY	0800 953 0213
<b>Symphony Housing Group</b>	16-18 Downing Street, Preston, PR1 4RE	01772 704713
<b>Eaves Brook (part of Your Housing Group)</b>	36 Ormskirk Road, Preston, PR1 2QP	01772 554470
<b>Great Places Housing Group</b>	Southern Gate, 729 Princess Road, Manchester, M20 2LT	0161 447 5077
<b>The Places for People Group</b>	4 The Pavilions, Port Way, Preston, PR2 2YB	01772 897200
<b>New Progress Housing Association</b>	Sumner House 21 King Street Leyland Lancashire PR25 2LW	01772 450600

<b>Chorley Community Housing</b>	Part of the Adactus Group – see above	
<b>AccentGroup</b>	The Martindales, Clayton-le-Woods, Chorley, PR6 7TJ	0845 678 0582

## **APPENDIX 2: AFFORDABLE HOUSING PROVIDERS**

Registered Providers operating in the Central Lancashire area

