

Hertsmere Local Plan

# Affordable Housing



Supplementary Planning Document

November 2015

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## Introduction

- i) The purpose of any Supplementary Planning Document (SPD) is to provide additional guidance on key development plan policies and how they will operate. It should not introduce new policy but supplement existing policies in the Council's Core Strategy. This SPD aims to provide advice to developers, including Housing Associations and other Registered Providers on the Council's approach to Affordable Housing provision.
- ii) Guidance is presented on the criteria for Affordable Housing, including the thresholds and percentages applicable, as well as advice on viability and how and when commuted payments will be considered. The SPD also provides advice on Section 106 (s106) agreements, which will be used to secure the provision of Affordable Housing on new developments.

### **Why is a revised SPD required?**

- iii) Hertsmere Borough Council needs to provide clear policy advice to ensure the delivery of affordable homes in the Borough. The Council's current SPD on Affordable Housing was adopted in October 2008 and since then there have been significant changes in national and local planning policy, together with changes to the way Affordable Housing is funded and a series of welfare reforms. In January 2013 the Council adopted the Hertsmere Local Plan Core Strategy which sets out the strategy for the Borough for the next fifteen years. The Core Strategy contains a range of policies to help meet the need for Affordable Housing. These policies are underpinned by new evidence and supersede the Affordable Housing policies contained in the Local Plan 2003.
- iv) In November 2014 a Written Ministerial Statement by the Minister of State for Housing and Planning introduced changes to national planning policy including setting out that Section 106 contributions should not be sought on sites of 10 units or less and which are smaller than 1000sqm. In designated rural areas an Affordable Housing contribution could be sought on sites of 6-10 units in the form of commuted sums. A credit against any required Affordable Housing contribution was to be given where there were existing vacant buildings on a site.
- v) Hertsmere Borough Council carefully considered this Written Statement made by The Minister of State for Housing and Planning on 28 November 2014 and associated change to the national PPG. It concluded that the planning system is plan-led and s38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise. The Council continued to apply statutory development plan policies when determining planning applications whilst at the same time having suitable and appropriate regard to other material considerations, including the Ministerial Statements and changes to the PPG. The effects of the Statement were quashed through a High Court judgment in July 2015. It should be noted that the Department for Communities and Local Government has indicated that it intends to appeal against the High Court judgment.
- vi) In response to the Ministerial Statement the Council formulated a policy within the Site Allocations and Development Management (SADM) Policies Plan (Submission Draft 2015) seeking financial contribution towards Affordable Housing on small sites of between 5 and 10 residential units. Following the July 2015 High Court judgment which quashed the effects of the Ministerial Statement (which was issued after the SADM Plan had been approved for publication) the Council does not seek to retain this policy in the SADM Plan because there is no longer any basis for doing so in national policy or local evidence.
- vii) In March 2015 the Government announced the introduction of a new national planning policy on Starter Homes, which is a material planning consideration.
- viii) The Council has a good track record in delivering new Affordable Housing. Between 2009 and 2014, 27% of new housing (431 units of 1572 total units) was delivered as affordable homes, excluding commuted payments. However, it is appropriate to revise the Affordable Housing SPD so that it is up-to-date and can be more effective in the current circumstances.

### **To which Core Strategy policies does the SPD relate?**

- ix) The SPD supplements the Core Strategy. It provides guidance on how the Affordable Housing policies should be interpreted and how they will be applied by the Council.
- x) The key policies are CS4, CS5 and CS7 (see Appendix B), which cover Affordable Housing requirements, Affordable Housing in rural areas and housing mix.
- xi) Policy CS4 sets out when the Council will require developers to make provision for an element of Affordable Housing and the proportion of units that should be affordable, and gives guidelines on tenure mix. It contains a presumption for on-site delivery. Alternative Affordable Housing provision will only be acceptable in exceptional circumstances and must be justified with appropriate evidence. Policy CS4 does not apply to the conversion of existing buildings to residential use under the Permitted Development regime. The provision of policy-compliant levels of Affordable Housing on sites in the Green Belt does not constitute the Very Special Circumstances required to outweigh harm to the Green Belt.
- xii) Policy CS5 allows for small-scale Affordable Housing schemes in certain circumstances as an exception to normal policies in the Green Belt.
- xiii) Policy CS7 requires that proposals for new housing provide an appropriate mix of homes within each tenure.
- xiv) The supporting text to Policy CS7 clarifies that the Council will apply its Affordable Housing policies to self-contained housing for older people falling within Class C2 or C3.

### **What have we reviewed to get to this new SPD?**

- xv) The Affordable Housing SPD 2015 takes account of the following:
  - The Hertsmere Local Plan Core Strategy was adopted in January 2013. It replaces the Local Plan policies upon which the 2008 SPD was based. The Core Strategy introduces higher percentage requirements for Affordable Housing and reduces the site thresholds when Affordable Housing will be sought;
  - The National Planning Policy Framework (NPPF, March 2012) and National Planning Policy Guidance (NPPG, March 2014) give a much stronger emphasis to the delivery of development. The NPPG gives clear guidance on viability;
  - The Community Infrastructure Levy (CIL), came into effect in December 2015 altering the use and application of planning obligations. The CIL Regulations define the tests for planning obligations;
  - The High Court judgement which quashed the Ministerial Statement 28 November 2014 and subsequent changes to national Planning Practice Guidance (nPPG) which advocated a 10-unit threshold for Affordable Housing contributions;
  - Updates to the Council's Housing Strategy and the new Local Implementation Plan;
  - The changing role of the Homes and Communities Agency;
  - The findings of the Council's Development Economics Study on the viability of delivering Affordable Housing through privately developed sites;
  - More recent evidence on housing need and affordability, including house prices, with local sales prices having recently reached the previous peak of March 2008;
  - The introduction of the Government's 'affordable rent' product and other housing reforms;
  - The new national Affordable Housing development regime, with significant reductions in public subsidy levels for the delivery of Affordable Housing and other welfare reforms including a cap on housing benefit;
  - The ability for developers to appeal directly to the Planning Inspectorate where there is an issue about a planning obligation;

- Recent experience of the delivery of Affordable Housing on development sites and securing of commuted sums; and
- The introduction of the Government policy on Starter Home exception sites in March 2015.

### **What changes have been made to the SPD?**

- a) The Affordable Housing threshold has been updated in line with the Core Strategy;
- b) The Affordable Housing percentage has been updated in line with the Core Strategy;
- c) Inclusion of the Government's revised definition of Affordable Housing (see Appendix A);
- d) An explanation of viability assessments has been included in line with the Government advice in the NPPG;
- e) There is an increased emphasis on the importance of delivering Affordable Housing units and on the importance of engaging in early dialogue with planning and housing officers to help achieve the needed units;
- f) Clarification of when and where different tenures will be sought and what will be regarded as genuinely 'affordable';
- g) It is acknowledged that commuted sums will be sought on more schemes than in 2008 due to the lower threshold for Affordable Housing in the Core Strategy;
- h) Commuted sums will be based on local house prices (from the Land Registry) and linked to subsequent changes in sales prices for the local area available from the Land Registry. This will help to provide an element of 'future-proofing';
- i) New and alternative methods of collecting commuted sums are explained. These are deferred payments and clawback arrangements, to enable a percentage of future profit to be used for Affordable Housing where viability is an issue at the initial application stage;
- j) The new SPD outlines the ways the Council will use the commuted sums it collects;
- k) Changes to some of the detail to aid consistency and understanding.

### **Affordable housing need in Hertsmere**

- xv) An October 2010 survey of local authorities by the National Housing Federation indicated that Hertsmere was the least affordable local authority in the East of England, with parts of the Borough having amongst the greatest gaps between housing affordability and access to services in England. The wide gap between local household incomes and house prices not only means that there is high demand for Affordable Housing to rent but also that the cost of 'intermediate' housing is not affordable to many seeking accommodation in the Borough.

### ***Strategic Housing Market Assessment (SHMA) 2010***

- xvi) The need for Affordable Housing in Hertsmere remains a significant material consideration and the borough has an exceptionally high house price to earnings ratio. As of 1 September 2015, there were 811 households on Hertsmere's housing register (a 7.4% increase since January 2015). Approximately 90% reside in Hertsmere and all are required to have a connection with Hertsmere so there remains an acute need for Affordable Housing in the borough.
- xvii) The Council completed a SHMA in 2010 with other districts in the housing sub-region. The SHMA indicated that 89% of new housing to 2021 would need to be affordable to meet the projected demand from households who cannot afford to purchase their own home on the private market. Work on a new SHMA is expected to be completed in late 2015.

### ***Housing Register***

- xviii) The Housing Register for Hertsmere provides more detail about the level of Affordable Housing need experienced by households in the borough. The Housing Register currently shows a high overall requirement for affordable dwellings with one to three bedrooms.
- xix) In September 2015 the Council's Live Housing Register held 811 households. This represents the number of households with identified housing need at that point in time, and is made up of families and vulnerable people. The people on this list require social and affordable rented homes.
- xx) This register does not include those people on moderate incomes who are on waiting lists for intermediate types of Affordable Housing such as shared ownership, equity share and key worker schemes. The Homebuy / Help to Buy agents in Hertfordshire, Bedfordshire Pilgrims Housing Association, hold a separate register of people who want to acquire a low cost home in the Borough. Lea Valley Homes remain the contact for the Government's Help to Buy equity loan scheme.

## 1. Providing Affordable Housing

- 1.1 It is important that everyone living in Hertsmere has the opportunity of a decent and affordable home. One of the priorities of the Hertsmere Together Community Strategy is that *“Partners will work together to continue to improve living conditions, enhance the supply of Affordable Housing, using land, resources and influence.”*
- 1.2 This reflects the Council’s commitment to helping local people who cannot afford to buy or rent a home on the open market in the Borough.
- 1.3 The Council supports the Government’s aim to secure mixed and balanced communities. Where there is an assessed need for Affordable Housing, the Government allows local authorities to deliver affordable homes by requiring developers to provide them within new housing schemes.
- 1.4 Policy CS4 of the Core Strategy 2013 outlines the Council’s planning approach towards achieving this. Policy CS5 specifically applies to Affordable Housing in rural areas on ‘exceptional sites’.
- 1.5 This SPD sets out in more detail how Policies CS4 and CS5 will be implemented.

### What is Affordable Housing?

- 1.6 Affordable housing is provided to eligible households who are unable to rent or buy housing at the market rates. It is therefore housing which is subsidised in some way and the Council defines Affordable Housing as it is set out in the National Planning Policy Framework, namely as *“Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market”*. The full definition is set out in Appendix A. Eligibility for Affordable Housing is determined with regard to local incomes and local house prices.
- 1.7 Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative Affordable Housing provision.
- 1.8 The types of Affordable Housing which will usually be sought on development sites in Hertsmere are listed in Table 1.

**Table 1: Types of Affordable Housing sought in Hertsmere**

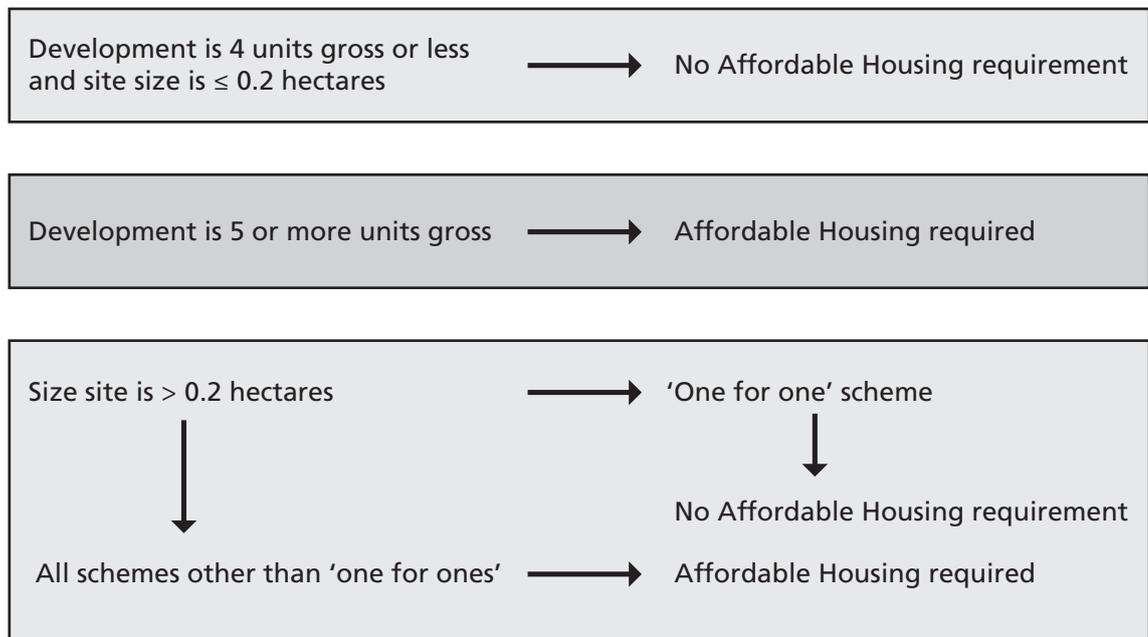
<b>Rented Housing</b>	
Social rent	Managed by registered providers (RPs) (or a local authority). Rents are lower than affordable rents, typically at 40%-60% of market rents.
Affordable rent	Rents charged can be no higher than 80% of the full market rent. They may be let by a RP to tenants eligible for social rented housing; therefore rents charged should not exceed the Local Housing Allowance rate.
<b>Intermediate housing</b>	
Shared ownership	The purchaser buys a percentage share of a property (initially a minimum share of 25%, or a maximum 75%) and pays rent on the share that they do not own, which is capped at 3% of the value of that share. Shared Ownership properties are always leasehold but the purchaser may gradually acquire the freehold in stages from the RP (known as ‘staircasing’). If the purchaser staircases up to owning 100% of the property, the capital receipts will be ring-fenced to deliver more Affordable Housing and/or to tackle homelessness in Hertsmere. Where 100% staircasing occurs, the RP or Council will have first right of refusal on purchasing the property back should it be sold.

<b>Intermediate housing</b>	
Equity share	The purchaser buys a percentage share of a property and does not pay rent on the share that they do not own. The remaining equity is transferred to the Council or a RP, or in some circumstances may be retained by the developer. Equity Share properties can be either freehold or leasehold. The purchaser may gradually acquire the freehold in stages from the Council, RP or developer. If the purchaser staircases up to 100% of the property, the capital receipts will be ring-fenced to deliver more Affordable Housing and/or to tackle homelessness in Hertsmere. Equity Share housing products should be discounted so that they are typically 40% of the open market price in the higher value postcode areas (as defined in Policy CS4) and 50% in all other locations.
Low cost housing	Low cost housing can provide housing for people unable to afford to rent or buy on the open market. To be termed Affordable Housing, legal safeguards need to be built in to ensure that the discount remains in place in perpetuity for all sales of the property, not just the first sale.

- 1.9 'Low cost housing' does not attract government funding, unlike shared ownership schemes, and the property is sold at a percentage below the market price. Given the high price of market housing in the Borough, Hertsmere does not generally consider such housing as 'affordable'. Discounted Sale homes will only be considered exceptionally where alternative forms of Affordable Housing provision are neither viable nor suitable. Legal safeguards will need to be in place to ensure that the property is sold at an affordable price in perpetuity and the Council will have regard to local incomes, average house prices, relevant government guidance and an acceptable income to lending ratio. The Government has stated that no new loans above 4.5 times borrowers' income can be included in its own Help to Buy mortgage guarantee scheme.
- 1.10 The introduction by the Government of a planning policy on Starter Homes in March 2015 provides an opportunity for such developments to come forward on Starter Home Exceptions Sites. On such Exception Sites, it is expected that local authorities will waive their usual Affordable Housing requirements. The Housing and Planning Act is expected to introduce Starter Home requirements through secondary legislation. However, until further guidance is issued by the Government the Council may not be able to accept applications for developments seeking to be classified as part of the Starter Homes policy.
- 1.11 The limited guidance issued to date on Starter Home Exceptions Sites states that the discounted price for properties outside of London should be no more than £250,000. On this basis any properties developed as Starter Homes on Exception Sites, and which have no more than a 20% discount applied, should have a full market value of not more than £312,500 (including any aspects of the development sold or leased separately to purchasers, such as parking).
- 1.12 The Council would not expect to consider properties which materially exceed the minimum dimensions in the new national space standards for each dwelling type as Starter Homes. These minimum standards exceed the dimensions of many new build properties which were developed in the borough prior to the introduction of space standards, and are considered to represent an appropriate size for homes specifically developed under the Starter Homes policy.
- 1.13 Types of Affordable Housing will vary over time. When new products emerge which meet the Government's definition (see Appendix A) they will be considered as Affordable Housing for planning policy purposes, as either rented or intermediate housing. Affordable housing can include temporary housing such as mobile homes. Gypsy and Traveller pitches will only be classed as Affordable Housing units where they are managed under legal agreement by a RP, this Council or Hertfordshire County Council, subject to a nominations deed with this Council and occupied by a nominee of this Council's choosing.

**When is Affordable Housing required?**

- 1.14 The requirement to provide Affordable Housing applies to development sites proposing 5 housing units or more (gross), and residential sites of more than 0.2ha. This includes:
- new build, conversions (except those which are permitted development) and mixed use schemes;
  - phased developments (whether the result of one or more than one planning application) where the threshold of 5 dwellings will be exceeded by cumulative totals;
  - developments by RPs;
  - schemes providing housing for people receiving care or support, including supported housing developments and continuing care retirement communities (including those classified as a C2 use where these comprise self-contained residential units);
- 1.15 The only exception is where a single replacement dwelling is proposed on a large plot (0.2 ha or above) to replace an existing single dwelling. The Council will not apply its Affordable Housing policies in such ‘one for one’ scenarios.



**Extra care and sheltered housing schemes**

- 1.16 Extra care and continuing retirement communities often provide self-contained units for sale to meet the needs of a growing older population. Such developments of self-contained units, whether they are within a Class C2 or Class C3 development, will be required to meet the Council's Affordable Housing requirements in Policy CS4 (see also paragraph 1.36). It is recognised that the level of care and associated facilities provided in such developments can vary, and where this adds substantially to the costs associated with such schemes this may impact on the viability of the scheme and the ability to provide Affordable Housing. The additional upfront costs of providing sheltered and extra-care housing may include higher build costs, a higher proportion of non-saleable floorspace due to communal areas and facilities, and a slower sales rate than mainstream housing. In such instances full details of the care provision and the extent of on-site facilities, including their cost, should be provided as part of any viability assessment submitted.

- 1.17 Where it is very clearly demonstrated that it is genuinely not practical to provide on-site Affordable Housing units on extra-care housing schemes, a commuted payment will be accepted without a need to first provide a viability assessment, subject to the required contribution being offered. Should the required contribution not be offered a viability appraisal should be submitted to include details of anticipated income from on-site services and facilities for which charges are made.

### **Talking to the Council and RPs about Affordable Housing**

- 1.18 The aim of Policy CS4 is to provide more Affordable Housing units in the Borough for the benefit of the community and in particular those in housing need.
- 1.19 Affordable housing will form part of most new development schemes. It is essential that developers clearly demonstrate early in the pre-application process how Affordable Housing will be integrated into a scheme and how their negotiations with land owners have factored in policy-compliant Affordable Housing to the agreed land price or option. Developers should engage in early discussions with the Council's Planning Officers and appointed Housing Officer before a planning application is submitted.
- 1.20 Developers will be expected in the first instance to be fully cognisant of the Council's Affordable Housing policies. The Council's appointed Housing Officer alongside the relevant RP will advise the developer on what is considered to be the appropriate amount, size, type, tenure and location of the Affordable units. The Council's priority is to secure Affordable units of accommodation: normally this will be on the development site itself.
- 1.21 Developers are urged to meet with a RP at the earliest possible opportunity to discuss the layout of the site and the design of the Affordable units. The Council will need to be provided with evidence of detailed offers from RPs for the units they are intending to provide.
- 1.22 When planning permission is granted, RPs will be expected to sign a nomination agreement with the Council, giving the Council the right to nominate tenants who are in housing need to the Affordable units.

### **Percentage**

- 1.23 Core Strategy Policy CS4 requires:
- 40% of residential units to be provided as Affordable Housing in the highest value postcode areas of EN5 4 (south of Potters Bar, including Bentley Heath, Ganwick Corner and Wrotham Park), WD25 8 (settlements west of Radlett, including Aldenham, Letchmore Heath, Patchetts Green, Roundbush and the Wall Hall Estate), WD7 8 and WD7 7 (Radlett); and
  - at least 35% of residential units to be provided as Affordable Housing in all other locations.
- 1.24 The calculated number of Affordable units or the number of units within each tenure type will not always equate to a whole number. Numbers will therefore be rounded up or down accordingly (at .5 or above the number will be rounded up; at .49 or below the number will be rounded down). Where, exceptionally, a commuted payment is agreed, the amount sought will be based on the calculated number of Affordable units without rounding, including any decimal places.
- 1.25 As a guide, the size mix of the Affordable units, where social rented/ affordable rented housing is to be provided, will be considered against the indicative proportions advised in the table below. Where intermediate housing is provided, the size mix should match the mix of the market units on the site.

**Table 2: Affordable Housing indicative size mix**

Housing Type	Proportion of units
Studio	0%
One bedroom	25%
Two bedroom	30%
Three bedroom	30%
Four bedroom	15%
Total	100%

- 1.26 The Council requires that the actual mix of Affordable units to be provided is agreed with the Council's appointed Housing Officer at an early stage in the process. This will help the Council achieve an appropriate fit with housing need prevailing at the time of the application. When considering the mix, the Council will take into account the value and size of units proposed on the development site, including their overall floorspace.

**Example**

If a scheme comprises large detached houses the Council's appointed Housing Officer may agree that it is more appropriate to seek a greater number of smaller dwellings for Affordable Housing. In this case, an equivalent floorspace may achieve more affordable units and the actual percentage of affordable units may then exceed 35% or 40%. This will apply where the developer agrees to this approach.

**Tenure mix**

- 1.27 The tenure mix required on each site will take into account the tenure profile of the surrounding area, and will be based on the prevailing need for Affordable Housing units. It is to be agreed with the Council's appointed Housing Officer on a site-by-site basis although it is likely that on sites of 15 dwellings or more in particular, Affordable units comprising 3 bedrooms or more will need to be provided as social rented. If the proposed Affordable Housing mix between social and intermediate housing is not acceptable planning permission is likely to be refused.

Table 3 shows the tenure mix sought by policy CS4.

**Table 3: Affordable Housing tenure mix**

Size of site (gross)	Affordable housing - on-site mix	Units sought off-site
15 units+	75% social and affordable rent, 25% intermediate	Only in exceptional circumstances
5 - 14 units	Intermediate and/or social rent	Only in exceptional circumstances
1 - 4 units where the site area exceeds 0.2ha*	None	Commuted sum

Note: \*Affordable Housing is not required on sites smaller than 0.2ha with 1 - 4 dwellings

- 1.28 In present circumstances, shared ownership units are more likely to be suited to sites of 5 -14 units, or alongside social and affordable rented products on larger schemes. Intermediate housing products should be discounted so that they are typically 40% of the open market price in the higher value areas set out in Policy CS4 and 50% in all other locations.

#### **Distribution of new Affordable homes within the development site**

- 1.29 The nature and size of the proposed development will influence the distribution of the Affordable homes. In all cases they should be an integral part of the development. On larger developments they should be spread throughout the site rather than concentrated in one area to promote the creation of integrated and sustainable communities in line with the NPPF. The practicalities of managing and maintaining units will be taken into account when agreeing the appropriate spatial distribution of units on the site.

#### **Design of new Affordable homes**

- 1.30 To ensure the creation of mixed and integrated communities the Affordable Housing should be “tenure blind”. This means that it should not be visually distinguishable from the market housing on the site in terms of build quality, materials, detailing, levels of amenity space and privacy. See the Planning and Design Guide Part D at [www.hertsmere.gov.uk/designguide](http://www.hertsmere.gov.uk/designguide) for general residential design guidance, including minimum floorspace requirements.
- 1.31 The integration of Affordable and market housing units should be considered at an early stage of the detailed design and layout of the site. All social housing will be expected to achieve part 2 of the Secured by Design award in relation to physical security which is the police approved minimum security standard.
- 1.32 All social and intermediate housing requiring Homes and Communities Agency grant funding must be built to meet the relevant design and quality standards. Further information can be found on the HCA's website here: <http://www.homesandcommunities.co.uk/ourwork/design-and-sustainability-standards>
- 1.33 Where historic buildings are being converted to provide Affordable Housing, the impact on the historic environment needs to be taken into consideration. Further information can be found in the Historic England guidance on Affordable Housing and the historic environment at: [www.helm.org.uk/place-and-placemaking/housing/affordable-rural-housing/](http://www.helm.org.uk/place-and-placemaking/housing/affordable-rural-housing/)

#### **Accessible housing, Lifetime Homes and specialist accommodation**

- 1.34 Policy CS22 requires that “where practicably possible 100% of new residential units should be built to Lifetime Homes Standards based on the Joseph Rowntree Foundation standards”. These standards are included in the Council's Planning and Design Guide SPD Part D (2013).
- 1.35 A proportion of wheelchair accessible homes should be provided on new residential redevelopments of 15 or more units. Applicants are requested to consider this provision at an early stage of design. Provision should be agreed with the Council on a site by site basis, having regard to current needs in the Borough. The wheelchair accessible housing required – i.e. by size and type of dwelling – should meet the greatest need of those on the Council's Housing Register at the time the planning application is determined.
- 1.36 Where specialist accommodation is proposed (such as elderly persons units) it is also necessary to provide a proportion of affordable units. In such cases, the applicant is advised to discuss proposals at an early stage with the Council and Hertfordshire County Council's Adult Services (see also paragraph 1.16-1.17).

#### **The timing of Affordable Housing provision**

- 1.37 Affordable housing units must be provided expeditiously: this includes any off-site provision that has been agreed. As a guide, the Affordable Housing units should be completed proportionately with the market housing; however the Council will consider the timing of Affordable Housing delivery on a case by case basis.

- 1.38 This is particularly important on larger schemes where poor timing can result in isolated pockets of development and cause problems with infrastructure delivery, leading to a poor living environment for new residents in the short term. Phasing of Affordable Housing delivery should generally be commensurate with market housing, taking into account the phasing of other infrastructure, although phasing will be considered on a case by case basis. If a clawback agreement has been negotiated, the Affordable Housing delivery during the first phase of development will be set out in the agreement, and Affordable Housing delivery may be increased during later phases of the scheme (see the section on viability reviews and clawback at paragraph 1.90).

**What happens if the required amount and mix of affordable units cannot be delivered on-site?**

- 1.39 The presumption will always be that the provision of all Affordable Housing will be made on site. It is expected that the need to provide Affordable Housing will be taken into account when a land value is agreed alongside other planning policy requirements and the Community Infrastructure Levy (CIL).
- 1.40 The Council recognises that it may be necessary to negotiate over the amount, mix and location of Affordable Housing to enable a development to come forward. Negotiations will be undertaken with the Planning Officer and the appointed Housing Officer and will be based on delivering the best outcome to meet local housing needs. They will take the following form:
- the preferred mix and tenure of dwellings will be negotiated to establish whether the percentage target can be met through an alternative tenure mix that will still meet local housing need.
  - where exceptionally it is demonstrated that the full requirement cannot be delivered on-site, the method of providing the Affordable Housing will be negotiated to establish whether the percentage target can be met through a mix of on- and off-site provision, using the hierarchy in Table 4.
  - if neither of the above options can be achieved, the Council at its discretion may consider an alternative percentage of Affordable Housing, in order to achieve on-site provision.
- 1.41 If a developer is not able to provide the required percentage of Affordable Housing units for reasons of viability, the onus will be on them to set out and evidence the inputs and assumptions which inform their conclusions.
- 1.42 If the required amount cannot be delivered for reasons of viability, an 'open book' viability appraisal will be required:
- to satisfy the Council that the proposed scheme would not be viable if the full amount of Affordable Housing was provided on-site, and
  - to help determine the amount and type of Affordable Housing provision that would be reasonable
- 1.43 An open book appraisal will also be necessary when the Council does not agree with the number of units or off-site alternative being offered by the developer (see the section on Viability Testing at paragraph 1.64 below) including any applications made under s106BA of the Town and Country Planning Act 1990.

**Off-site Provision**

- 1.44 Alternatives to on-site provision will only be agreed exceptionally and where off-site alternatives are considered to be the best way to achieve the delivery of more Affordable units. The alternatives to on-site provision are set out in priority order in Table 4.
- 1.45 If off-site provision is agreed for reasons other than viability on sites of 5 units or more, the Council will look to maintain the ratio between market housing and Affordable Housing, required by Policy CS4, across the main site and the donor site or equivalent commuted payment. This is to ensure that the market housing comprises no more than 60% to 65% of the housing being delivered and/or funded, with the remaining proportion comprising Affordable Housing in line with Policy CS4. Where off-site units are provided the

precise percentage may vary slightly depending on the required number of Affordable Housing units and the need to round the calculation up or down (refer to paragraph 1.47 for further detail).

**Table 4: Hierarchy of Alternatives to On-site Provision**

	<b>Type of Provision</b>	<b>Notes</b>
1	Provision of affordable units on an alternative site ('donor site')	A parallel planning application should be submitted for the development of the donor site and the implementation of any approved scheme on the main site would need to be linked through a s106 agreement to an approved development on the donor site.
2	Purchase of land for a RP or the Council within the same settlement	Suitable land within the same settlement or place as the application site will be transferred at no cost to a RP or any development company formed by the Council, who will then finance and build the required affordable homes on that land. The location should be agreed with the appointed Housing Officer.
3	Purchase of existing housing units within the Borough	The developer will purchase the required number of units on the open market and sell them to a RP or Council at a 30%-40% discount. The location, quality, cost, size and design of the units must be agreed with the RP and the Council's Housing Officer to ensure units meet the prevailing need and are of an appropriate standard.
4	Purchase of land for a RP or the Council elsewhere in the Borough	Suitable land elsewhere in the Borough will be transferred at no cost to a RP or any development company formed by the Council, who will then finance and build the required affordable homes on that land. The location should be agreed with the appointed Housing Officer.
5	Commutated sum for Affordable Housing	This will be accepted on sites larger than 0.2 hectares where 1-4 units are proposed. On larger sites it will only ever be accepted after the alternatives above have been actively considered by the developer and discounted by the Council.

1.46 In respect of the alternatives to on-site provision 1, 2 and 3 in Table 4, land should be provided at no cost to an RP and the gap between construction costs and what an RP is able to afford should be reflected in negotiations between developers and landowners. Where off-site Affordable Housing is exceptionally agreed payments-in-lieu will normally only be agreed where, for example:

- on smaller sites, RPs may not want Affordable Housing because of management difficulties;
- service charges and other costs would be prohibitively expensive to occupiers of Affordable Housing;
- the Council/RP does not consider it appropriate to have units in that location due to their unaffordability;
- the Council is satisfied that there is no scope to provide an alternative site or purchase land or existing housing units within the same settlement or elsewhere; or
- the site is in a remote, rural location outside of any of the towns and villages listed in the settlement hierarchy in the Council's Core Strategy.

Where such issues could reasonably have been anticipated and addressed prior to the submission of an application, the application is likely to be refused.

**Donor sites**

- 1.47 If off-site provision is agreed for reasons other than viability, the Council will look to maintain the ratio sought by Policy CS4 between market housing and Affordable Housing across the main site and the off-site provision, using the formula below to calculate the number of affordable units required on the donor site.

**In areas where Policy CS4 requires 35% Affordable housing**

$$(\text{no. units on main site} \div 0.65) - \text{no. units on main site} = \text{no. of affordable units to be provided on donor site}$$

**In areas where Policy CS4 requires 40% Affordable housing**

$$(\text{no. units on main site} \div 0.6) - \text{no. units on main site} = \text{no. of affordable units to be provided on donor site}$$

- 1.48 Where the Council is satisfied that off-site provision is required for reasons of viability, the Council will seek a ratio that is close as possible to the mix required by Policy CS4.

**Commuted sums**

- 1.49 Financial contributions are considered an inefficient and resource-intensive method of providing Affordable Housing in the Borough and the Council will only agree to the provision of Affordable Housing by way of a financial contribution in exceptional circumstances.
- 1.50 Appendix D sets out the standard contribution sums for different types of housing and different parts of the borough. The Council considers these sums are reasonable and broadly equivalent to delivering on-site provision. The sums in Table D2 are based on Land Registry house price sales data for the 12 months to 30 June 2015. They are disaggregated by area of the borough and type of housing so as to more fairly reflect differences in land value across Hertsmere, and the Council will aim to update them quarterly. Figures may go up or down over time and an updated Table D2 will be published on the Council's web site alongside this SPD. The method for calculating commuted sums is set out in Appendix D, together with worked examples.
- 1.51 When financial contributions are received, these will be pooled and spent on the provision of Affordable Housing through a range of mechanisms, including:
- the Council's own programme for building affordable homes;
  - any development company that may be formed by the Council;
  - acquisition of land for Affordable Housing;
  - to offset the cost of any land being provided by the Council which might otherwise be sold on the open market;
  - purchase of second hand units for use as Affordable Housing;
  - grant aid to RPs to help them provide Affordable Housing in the Borough.

**Section 106 agreements**

- 1.52 The delivery of Affordable Housing will be secured through a planning obligation. This will consist of either a Section 106 (s106) Agreement or a Unilateral Undertaking. The planning obligation should be concluded expeditiously (i.e. within no more than 3 to 6 months of the application being granted subject to the s106 agreement). If this does not happen, the planning application will be refused.

- 1.53 Council will be pleased to supply a draft agreement to the applicant once the relevant details have been provisionally agreed.
- 1.54 The Council will seek to be reasonable in applying its policies on Affordable Housing and will have regard to best practice and other advice, including the HCA's guidance on promoting mortgage access for Affordable Housing. The Council recognises, in particular, the tests for planning obligations in the Community Infrastructure Levy Regulations 2010 (Regulation 122) and in the National Planning Policy Framework 2012.
- 1.55 If a payment in lieu has been agreed, the Council will negotiate for the payment or a proportion of the payment to be triggered on completion of an agreed number of units or a particular development phase. S106 agreements should refer to payment upon the completion of the units to which that payment relates. A clause in the s106 agreement will address any scenario where grant funding becomes available after a viability assessment has been completed and planning permission granted, where the Council will secure additional contributions towards Affordable Housing (and/or any other s106 contributions), up to the amount originally sought.

**Planning obligations should only be sought where they meet all of the following tests:**

- (a) necessary to make the development acceptable in planning terms;*  
*(b) directly related to the development; and*  
*(c) fairly and reasonably related in scale and kind to the development.*

NPPF 2012 Paragraph 204

**Rural exception sites (RES)**

- 1.56 Core Strategy Policy CS5 permits small-scale Affordable Housing developments adjacent to existing villages in the Green Belt as an exception to normal policy. This only applies where the proposed development is small-scale, and where Affordable Housing is required to meet recognised local need in those villages.
- 1.57 An exception site is normally expected to consist of:
- no more than 10 units at the larger villages (Shenley, Elstree and South Mimms);
  - and no more than 5 units at smaller villages.
- 1.58 An application for Affordable Housing to meet local needs will be viewed favourably where:
- the need is proven - this must be based on robust evidence using an up to date survey of the village, such as a Housing Needs Study or Parish Plan: the survey should identify those in need of accommodation who are either current residents of the village or have a close connection to it;
  - the need cannot be met on other more suitable sites in a nearby town or the village; and
  - the site is suitable in all other respects.
- 1.59 The new housing should
- be delivered through a RP (including a village or other charitable trust, or exceptionally with the involvement of a developer);
  - meet the type of local need identified;
  - be available to people with a local connection as a matter of priority; and
  - remain affordable in perpetuity.

- 1.60 RES should be located within or adjacent to the development boundary of the village and not result in encroachment into the surrounding countryside.
- 1.61 To encourage rural exceptions developments, the Council will:
- promote the rural exceptions policy with Parish Councils, supporting relevant neighbourhood plans;
  - advise of the information it holds on rural Affordable Housing need (through the appointed Housing Officer);
  - improve joint working with RPs; and
  - allocate rural affordable sites where these are brought to the Council's attention and considered appropriate for development.
- 1.62 While the whole of a rural exceptions scheme is normally expected to deliver 100% Affordable Housing, the Council may consider a small element of market housing in some instances. This will only be accepted where a viability assessment demonstrates that such a cross subsidy is necessary to make the scheme viable. It is expected that on RES each plot will be brought forward at a nominal value, typically no more than £10,000.
- 1.63 Where rural exception sites are proposed, they should take account of the provisions of any Conservation Area Appraisals/ Management Plans, Neighbourhood Plans, Village Design Statements or Parish Plans. The Historic England Affordable Housing guidance may be relevant ([www.helm.org.uk/place-and-placemaking/housing/affordable-rural-housing/](http://www.helm.org.uk/place-and-placemaking/housing/affordable-rural-housing/)) alongside guidance on the conversion of traditional farm buildings ([www.helm.org.uk/guidance-library/conversion-of-traditional-farm-buildings/](http://www.helm.org.uk/guidance-library/conversion-of-traditional-farm-buildings/)).

### **Viability testing**

- 1.64 A scheme is viable if the value generated by the development exceeds the costs of developing it.
- 1.65 From time to time a developer or applicant may question the viability of a particular scheme. This concern may extend to the build costs, the nature of any planning obligations (including Affordable Housing), the site value, the value of the completed scheme or a mix of the different factors. Where this happens, the Council will require an 'open book' viability assessment.
- 1.66 An 'open book' assessment should normally be based on actual costs and values. If this is not possible in any part the Council expects clearly verifiable and justified benchmark figures to be used (e.g. Building Cost Information Service data from the RICS (Royal Institution of Chartered Surveyors)).
- 1.67 The viability assessment will be an objective test of the ability of a development project to meet its costs (including the cost of planning obligations), while ensuring an appropriate and competitive return for the land owner and the developer.
- 1.68 In the case of Affordable Housing, the Council will use the viability assessment: to satisfy itself that a proposed scheme would or would not be viable, if the full amount of Affordable Housing was provided on-site; and/or to help determine the amount and type of Affordable Housing that would be reasonable.

### **Submission of viability assessments**

- 1.69 Applicants' viability assessments should be detailed, show clear workings and be based on the most reasonable set of figures available.
- 1.70 The Council is willing to discuss viability issues with applicants at an early stage, particularly those whose land acquisition costs or option arrangements reflect the Council's planning policies.
- 1.71 The Council will appoint an independent valuer to review viability appraisals submitted as part of a planning application, including for any re-appraisal required at part of any clawback arrangement. All initial appraisals and reappraisals will be undertaken at the applicant's expense. The appointment of a valuer to undertake all appraisals and reappraisals will be made through the Hertfordshire-wide Viability Framework

Agreement which has been set up by local authorities across the County following a competitive tender in 2015. The appointed consultant may be asked to brief Members of the Planning Committee on their findings.

- 1.72 Assessments may use a proprietary model, such as the Three Dragons Model produced for a number of Hertfordshire authorities, including Hertsmere, the Homes and Community Agency's Development Appraisal Tool (DAT), Argus Developer and ProVal. Bespoke appraisals are also acceptable where the method used is clearly explained and follows the above guidance.

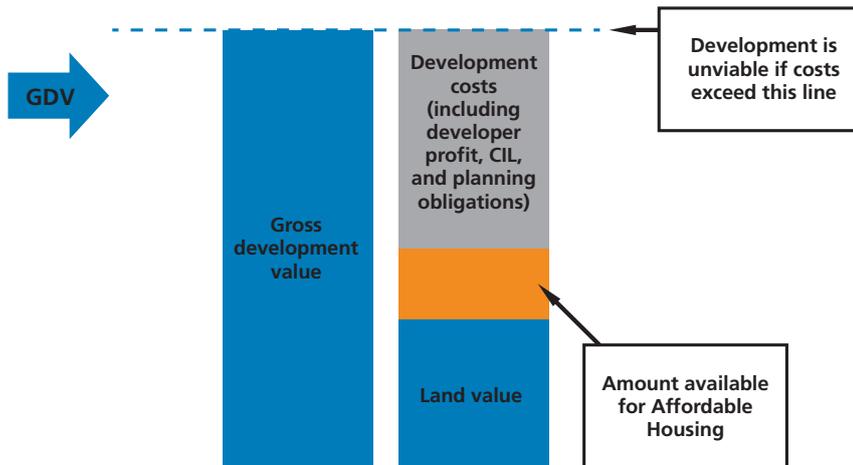
### **What the Council expects from a viability assessment**

- 1.73 A viability assessment should be carried out using the residual method of valuation.
- 1.74 This method compares the gross development value of the proposed development with the costs of developing the site including planning obligations/CIL. The assessment should be based on current costs and values, in accordance with National Planning Policy Guidance (2014 - Paragraph: 017 Reference ID: 10-017-20140306).
- 1.75 The balance of the gross development value after development costs, planning obligations/CIL and the developer's return have been subtracted will establish the residual value of the scheme. Where this exceeds an agreed land value benchmark, the scheme will be considered to be viable.
- 1.76 The residual method of valuation can be used in one of two basic ways:
- to assess the level of return generated from the scheme (where the site cost is an input to the scheme):  
As a general guide, for market housing it is typically around 15-20%, although the level of profit the Council will consider acceptable will be considered on a case by case basis, taking into account market conditions at the time of the application (i.e. if the housing market is weak a profit level closer to 20% may be acceptable, while in a more buoyant market it would be expected that the percentage profit would be lower). For Affordable Housing the developer's profit is typically around 6% of the gross development cost (i.e. excluding land).
  - to establish a residual site value or residual land value (by inputting a predetermined level of return).
- 1.77 Considering Affordable Housing specifically:
- if residual land value exceeds the land value benchmark, then a policy compliant level of Affordable Housing is viable;
  - if residual land value is less than the land value benchmark, then a reduced Affordable Housing contribution may be appropriate and should be tested.
- 1.78 Figures 1.1 and 1.2 illustrate the element of gross development value that notionally should be available for Affordable Housing.
- 1.79 When scheme viability is being considered the revenue received from the registered provider for the proposed Affordable Housing units should be taken into account.

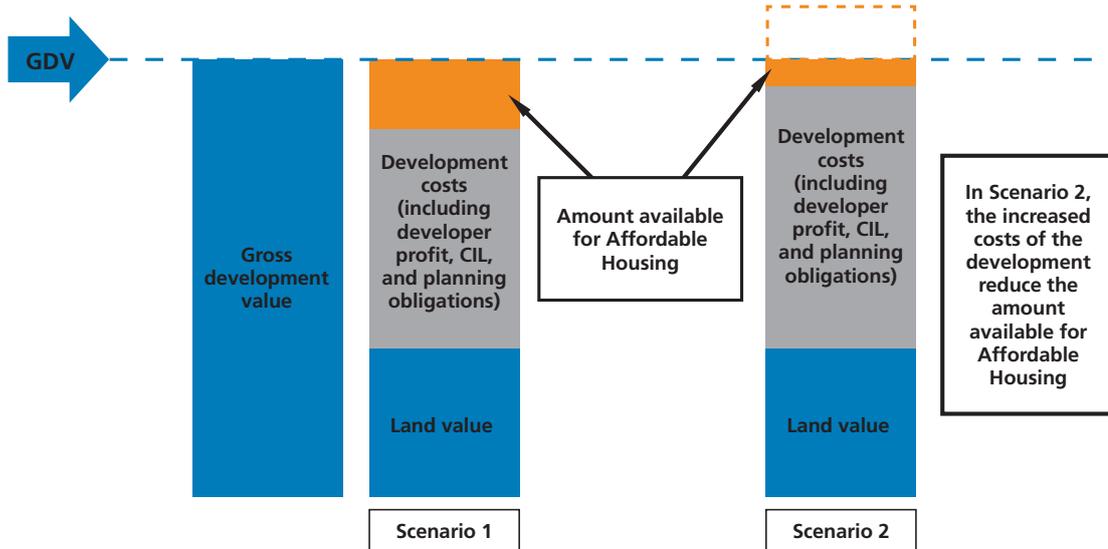
### **Land value benchmarks**

- 1.80 The residual method of valuation should be used to establish a residual land value which is compared to a suitable benchmark. The possible benchmarks are:
- a) the Existing Use Value plus a reasonable premium as an incentive to encourage the landowner bring the land forward for development:
- the Council considers this approach reasonable in many of the urban development situations in the borough. Any premium would need to be justified through site specific reasoning and, if appropriate, by comparison as well. The Council does not consider that premiums are appropriate when assessing the value of rural exception sites (see Rural Exception Sites subsection on p.10);

**Figure 1.1: amount of gross development value available for Affordable Housing**



**Figure 1.2: scenarios showing the amount of gross development value available for Affordable Housing**



- b) the Alternative Use Value where there is an extant planning permission on a site or the site is allocated through the development plan; or
- c) the Site Value, which should equate to the Market Value if the following assumption is satisfied - "the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan":

1.81 The Council considers that Site Value should invariably represent EUV plus premium. However, the RICS Guidance Note: Financial Viability in Planning (GN 94/2012) notes that the setting of premiums has been inconsistent in practice and promulgates Site Value as the better alternative. Site Value is an Alternative Use Value adjusted for risk. The definition of Site Value takes into account development plan policies, but not necessarily supplementary guidance or the Council's conclusions on specific planning proposals (through the determination of planning applications). For this reason, the Council advocates valuers obtaining planning advice throughout.

- 1.82 The Council considers that the benchmark that is used should be justified with reference to comparable evidence and subject to appropriate sensitivity testing.
- 1.83 The Council expects valuers to assume:
1. that valuations underlying land transactions take into account planning policies;
  2. that the requisite level of Affordable Housing (and other obligations) are planned to be provided in compliance with the local planning policy framework; and
  3. that assumed premiums or landowner returns are reasonable in context and not excessive (this factor may be more significant where any green field sites are under consideration).
- 1.84 Certain types of housing, including sheltered accommodation, can be expected to incur higher upfront costs than general needs housing. This can be due to the amount of saleable floorspace, longer marketing and sales periods, and longer development periods although this may be offset through income from on-site services and facilities for which charges are made.
- 1.85 Where a site would benefit from a permitted change of use from office to residential under the temporary provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (or any subsequent Order), the Council will attach little weight to this as a measure of alternative use value. In addition, the number of units which could be provided under permitted development will only be considered as a 'fall-back position' for the purposes of calculating the Affordable Housing requirement where an application has been made and prior approval is not required by the Council. The Council will only consider such schemes to be a 'fall-back position' where the size and layout of proposed units are capable of providing satisfactory accommodation, having regard to the national Technical housing standards and Part D of the Council's Planning and Design Guide SPD.

#### **Development costs and values**

- 1.86 Paragraph 022 of the NPPG 214 (Reference ID: 10-022-20140306) advises that assessment of development costs should be based on robust evidence which is reflective of market conditions.
- 1.87 All development costs should be taken into account, including:
1. build costs, based on appropriate data;
  2. abnormal costs, including those associated with treatment for contaminated sites or listed buildings, or historic costs associated with brownfield, phased or complex sites. All abnormal costs should be disaggregated within the appraisal;
  3. infrastructure costs, which might include roads, sustainable drainage systems, and other green infrastructure, connection to utilities and decentralised energy and provision of social and cultural infrastructure;
  4. cumulative policy costs and planning obligations (the full cost of planning standards, policies and obligations will need to be taken into account, including the cost of the Community Infrastructure Levy);
  5. finance costs, including those incurred through loans;
  6. professional, project management and sales and legal costs;
  7. any expected increases in costs; and
  8. developer's profit.
- 1.88 Development values should include:
1. purchase offers for Affordable Housing from RPs;
  2. all sales values for the proposed development, including any garaging, parking or other facilities which can be sold or leased separately.

### **Publication of viability assessments**

- 1.89 The Council will publish all information submitted in support of a planning application, including viability appraisals. If the applicant considers that any element(s) of a viability assessment should be kept confidential, they should provide justification for why disclosure would harm both their commercial interests and the public interest, in line with the Environmental Information Regulations 2004. Following consideration of this, the Council would then publish the information with any elements it considers should not be disclosed redacted. If this is the case, applicants may be asked to provide a redacted version of the appraisal.

### **Changes in the economy and market conditions**

- 1.90 The Council recognises that market conditions change and circumstances prevailing at the time of determining a planning application may vary – i.e. improve or worsen. For this reason, it is highly important that developers provide up-to-date viability information. This is particularly important where larger, phased schemes are being contemplated. In very limited instances, it may be possible to show that a scheme is not viable under current market conditions. In those situations, the Council has made provision to move the scheme forward via either ‘clawback’ or ‘deferred payments’. Value growth assumptions will not be accepted in place of a mid-development viability review, where such a review is considered necessary. A notice may be entered at the Land Registry under s32 of the Land Registry Act 2002 in respect of any clawback relating to commuted payments or other restrictions relating to the sale or occupation of properties within the development, as set out in the s106 agreement. Where this is the case, the cost of the Land Registry fee will be recovered from the applicant.

### **Viability Reviews (‘clawback’) and deferred payments**

- 1.91 There are circumstances where the Council may at the time of determining the application, accept phased on-site provision or a reduced financial contribution to enable development to come forward. This may occur when, for example, the land value benchmark is too high or residual value too low, or a combination of both. If the applicant has adequately demonstrated that a scheme cannot be delivered in current market circumstances, the Council may, in exceptional circumstances, agree to defer the policy requirements until better market conditions apply. This would be through ‘clawback’ or ‘deferred payments’.
- 1.92 If this is the case, an additional viability appraisal will be carried out upon completion of 60% of sales (or on large developments, 60% sales completions for each phase). The Council recognises that some properties can be purchased ‘off plan’ and no payments will be sought prior to completion of the units to which that payment relates.
- 1.93 The Council recognises that on particularly large schemes, there may be site-wide infrastructure which benefits the whole development but the costs of which are borne up-front. This may impact on the profitability of early phases or make later phases appear very profitable and so in such instances the Council will seek reappraisal of the ‘whole scheme’ on completion of each phase, with historic phases based on actual revenues and actual costs.

### **Viability Review**

- 1.94 Where it has been agreed that less than the required percentage of Affordable Housing will be provided on site due to an accepted viability challenge, a claw back agreement may be arranged. The terms of this will be set out as a clause in a s106 agreement between the applicant and the Council.
- 1.95 Scheme viability will be reviewed at the end of the first phase of development to establish whether a greater percentage of Affordable Housing could viably be provided within the next development phase.
- 1.96 If it is found that a higher percentage of on-site Affordable Housing can viably be provided, this higher amount will only be applied to subsequent phases of the development and will not be applied retrospectively to those already completed. The Council may exceptionally accept a change in tenure for the

latter phase of a development, in order to better meet local needs and following consultation with the housing officer, notwithstanding that this may affect the overall number of affordable units delivered.

- 1.97 If it is found that viability has worsened due to falling market conditions, it may be possible to renegotiate the tenure of on-site Affordable Housing units. Where material changes to an approved scheme are proposed, for example to reduce the amount of Affordable Housing provided on site, a fresh planning application will be required.
- 1.98 See Appendix C for a worked example.

### **Deferred payments**

- 1.99 Where a commuted sum of less than the target amount has been agreed, the Council will include an arrangement in the s106 Agreement to seek a higher amount to be paid should the development viability improve.
- 1.100 The scheme viability will be reviewed upon 60% of sales completions or on larger schemes, completion of a particular phase, and the Council will receive 60% of any additional surplus up to the amount required under the deferred payment. This review is to ensure that any requirement for additional financial contributions is based on up to date values. The costs of the review will need to be met by the applicant. 60% of monies due would then need to be paid to the Council upon completion of 60% of the units or on completion of a phase, with the remainder being paid upon completion of 80% of the development.
- 1.101 The amount agreed will be capped at the level of commuted sum which would be required to make good the shortfall in Affordable Housing provision. This will be calculated with reference to the guidance on commuted sums in Appendix D.

### **Variation to Section 106 agreements**

- 1.102 The Council recognises that developers and RPs may wish to vary the Affordable Housing element of the s106 once it has been completed. A formal request in writing for a variation to the s106 agreement will need to be made in writing to the Council. The granting of such requests will be subject to the approval of the Council. The applicant will be required to pay the Council's legal and administrative costs incurred in negotiating and completing the deed.

### **Monitoring and Administration**

- 1.103 Considerable monitoring of residential schemes and their associated s106 legal agreement can be required where the full amount of Affordable Housing is not provided on-site from the outset, in order to ensure that a development continues to be acceptable in planning terms. This includes tracking when units have been sold, ensuring that off-site units provided are genuinely affordable (in line with this SPD and in consultation with the Council's Housing department), additional work on the part of the Council required as part of any clawback stage and obtaining required information from the Land Registry. The Council will seek a modest monitoring and administration fee of £100 per residential unit permitted as part of the application on schemes of up to 10 units, and £50 for each additional unit up to 100 units alongside any proportion of CIL receipts which the Council may use for monitoring (up to 5% of CIL receipts). On all schemes of above 100 units, any monitoring fee will be agreed on a site by site basis. The fee will be index linked to increases in CPI from the date of adoption of this SPD.

## 2. Management and Occupancy

### **Management**

- 2.1 The Council's preference is for Affordable Housing to be transferred to a RP (Registered Provider), once it has been built. It will then be managed as Affordable Housing in accordance with HCA guidelines. An agreement with the RP should be reached at an early stage of the process as it will normally provide some financing for the affordable units.
- 2.2 Equity share may be more appropriate on smaller schemes and may directly involve the Council or a RP. In other circumstances, developers may choose to retain ownership of the Affordable Housing and manage it directly. In any case, the Council will want to ensure that appropriate management arrangements are in place.

### **Affordability**

- 2.3 Before planning permission is granted the Council will need to be satisfied that rental levels, service charges and shared ownership costs are genuinely affordable to occupants both in the short term and the long term. The Council will seek the Affordable Rent tenure for one and two bedroom properties, and will require that the rent levels do not exceed the Local Housing Allowance. Social rent will be sought for properties with three or more bedrooms, and the rent level will need to be consistent with the Council's adopted Tenancy Strategy.
- 2.4 The precise mix of tenures and the overall percentage of Affordable Housing to be delivered should be agreed with the Council's appointed Housing Officer at an early stage to ensure that it meets local need.

### **Control of occupancy**

- 2.5 The Council will ensure that occupancy of the Affordable Housing units provided is restricted to eligible households in housing need.
- 2.6 For rented properties (social and affordable rented housing) the Council will expect to be able to nominate 100% of the initial lettings and 100% of re-lets. Nominations will all be persons on the Council's housing register.
- 2.7 For shared ownership and equity share properties secured through s106 agreements on privately developed sites the Council expects to be able to nominate 100% of sales and re-sales.

### **Perpetuity**

- 2.8 In accordance with the definition of Affordable Housing, the Council will ensure that affordable homes delivered under Policy CS4 either remain available at affordable rents in perpetuity, or their resale value is recycled to provide other forms of Affordable Housing to meet an identified local need.
- 2.9 All money received as a result of occupants either purchasing their property (e.g. through the 'right to acquire') or acquiring a further equity share (e.g. through 'staircasing') will, subject to any statutory restrictions, be used to provide Affordable Housing within the borough. Recovered HCA grant must either be paid back to the Agency or recycled to provide Affordable Housing, in accordance with the HCA's guidance on recycled capital grant funding. Equity Share arrangements will be set out through a Section 106 agreement as a charge on the property.

Affordable housing on rural exception sites (Policy CS5) should be provided in perpetuity.



# Appendices

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## Appendix A: Extracts from National Planning Policy

### What is Affordable Housing?

The definition of Affordable Housing used by the Council is set out in Annex 2 of the National Planning Policy Framework as follows:

*Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative Affordable Housing provision. the amount set out in the s106*

*Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.*

*Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).*

*Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.*

*Homes that do not meet the above definition of Affordable Housing, such as "low cost market" housing, may not be considered as Affordable Housing for planning purposes.*

Part 6 of the NPPF - Delivering a wide choice of high quality homes

*50. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:*

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);*
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and*
- where they have identified that Affordable Housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.*

Planning policy on Starter Homes (introduced through Ministerial Statement (02/03/2015):

*Where applications for starter homes come forward on such exception sites, they should be approved unless the local planning authority can demonstrate that there are overriding conflicts with the national planning policy framework that cannot be mitigated.*

*Planning obligations should be attached to permissions for starter homes on starter homes exception sites, requiring that the homes are offered for sale at a minimum of 20% below open market price, to young first-time buyers who want to own and occupy a home. They should also prevent the re-sale and letting of the properties at open market value for a five year period.*

*In view of their contribution to meeting housing needs, starter homes exception sites should not be required to make section 106 Affordable Housing or tariff-style contributions.*

*Exception sites may include a small proportion of market homes, at the planning authority's discretion, where this is essential to secure the required level of discount for the starter homes on the site.*

*Starter homes developments are expected to be well- designed and of a high quality, contributing to the creation of sustainable places where people want to live, work and put down roots to become part of the local community. A new design advisory panel set up by the Government, involving leading industry experts, is developing an initial set of exemplar designs for starter homes which we expect to publish shortly for wider comment. While recognising the need for local flexibility, we would expect these designs over time to become the default approach to design to be considered for starter homes developments.*

*This new national planning policy should be taken into account in plan-making and decision-taking, and should be read alongside other policies in the National Planning Policy Framework.*

## Appendix B: Relevant Local Plan Policies

Taken from the Core Strategy 2013

### **Policy CS4 Affordable housing**

*To increase the supply of Affordable housing, developments of 5 self-contained, residential units or more (gross), or residential sites of more than 0.2 hectares, should make provision for an element of Affordable housing. On sites of fewer than 15 units, this may be delivered through the provision of intermediate housing (including shared ownership and share equity), with sites of 15 units or more containing a mix of social rented housing, affordable rent and intermediate housing.*

*The following percentage targets will be sought through negotiation:*

- *40% in post code areas EN5 4, WD25 8, WD7 8, WD7 7;*
- *at least 35% in all other locations;*

*Appendix 6 provides a map of the post code areas within Hertsmere. The policy equates to an Affordable Housing target of 1,140 from 2012 to 2027.*

*The Council will seek the maximum level of Affordable housing on site. A lower level of provision will not be acceptable unless the Council agrees exceptional circumstances are demonstrated. Only in exceptional circumstances will an alternative to on-site provision be appropriate.*

*As a guideline, on sites of 15 or more units (gross) or 0.5 hectares, the Council expect that 75% of the Affordable housing units will be delivered as social rented and/or affordable rent housing and the remainder as intermediate housing. The precise tenure and dwelling mix will be agreed with the Council on a site-by-site basis and reflecting current housing needs or updated supplementary guidance.*

*Where scheme viability may be affected, developers will be expected to provide full development appraisals to demonstrate an alternative Affordable Housing provision.*

### **Policy CS5 Affordable housing in rural areas on "Exception" sites**

*The inclusion of small-scale Affordable housing schemes, as an exception to normal policies, will be permitted in and immediately adjacent to settlements in the Green Belt, as identified on the Core Strategy Key Diagram. "Exception" sites should be small in scale in relation to the size of settlements and such schemes should meet the identified needs of people local to the village or settlement, remain affordable in perpetuity and be managed by a Registered Social Landlord. Priority will be given to sites located on previously developed land within settlements and the scale of development should not exceed the level of need identified or have adverse effects on the natural and built environment.*

**Policy CS7 Housing mix**

*To help meet local housing needs, proposals for new housing should provide an appropriate mix and size of new homes in terms of housing size and type within each tenure. Development proposals will be permitted, subject to the requirements of other relevant DPD / Local Plan policies, so long as:*

- i) housing developments in excess of 10 units (gross) contain some variation within their housing mix, with sites over 25 units or 1 hectare reflecting identified variations within the Borough's housing need, subject to proposals respecting the prevailing character of the area; and ii) on large sites allocated in the Site Allocations DPD and large windfall sites, the need for a proportion of sheltered or extra care housing is considered as part of the overall housing mix.*

*Consideration will be given to the incorporation of minimum floorspace guidance in revisions to Part D of the Planning and Design Guide Supplementary Planning Document in support of the provision of high quality residential environments.*

## Appendix C: Example of Clawback for On-site Provision

A residential scheme of 300 units is to be carried out in 3 phases of 100 units each.

The viability appraisal has shown that it is not viable to provide 35% of the units as Affordable Housing: agreement is reached that the development can proceed with the provision of 25% Affordable Housing instead.

### **Phase 1**

At the end of the first phase 100 houses have been built, of which 25 are affordable.

The viability of the scheme is reappraised and it is found that 30% Affordable Housing could now be provided.

Therefore, 30% of the next 200 houses to be built is required to be affordable.

**Phase 2** is completed. 100 houses are built, giving 30 more affordable units – 55 units in total out of the 200 houses built in Phases 1 and 2.

A further viability appraisal is carried out and the scheme can now provide 35% Affordable Housing. The percentage required in the Core Strategy is the highest percentage that can be required.

This only applies to the final 100 houses to be built in Phase 3.

**Phase 3** is completed with 35 more affordable units, totalling 90 affordable units out of the full scheme of 300 units.

This gives an overall Affordable Housing percentage of 30% across the whole 300 unit scheme.

### ***Alternative Scenario at the End of Phase 1***

At the end of Phase 1, it is concluded that the remaining scheme (200 units) could support 35% affordable units on site (i.e. 70 more affordable units).

The full scheme would then provide 95 Affordable Housing units (70 + 25), or 31.6% of the total. This is the maximum level of Affordable Housing that could be achieved.

## Appendix D: Commuted Sums

When a financial contribution is considered the most effective way of supporting the delivery of affordable homes, the Council will calculate the amount using the basic formula in Table D1.

**Table D1: Method for Calculating Commuted Sums**

	<b>Calculation</b>	<b>Notes</b>
1	Identify the number and type of housing units in the scheme	Housing units (Gross) i.e. Detached Semi-detached Terraced Flat (or Maisonette)
2	Multiply each figure by the proportion of Affordable Housing to be achieved <sup>1</sup>	Affordable housing units 40% - Radlett (post codes WD7 7 and WD7 8) 40% - Postcodes EN5 4 and WD25 8 35% - Elsewhere in the borough (taken from the Core Strategy)
3	Multiply each answer (including any decimal place) by the standard financial contribution for that area and type of housing	Standard financial contribution for Affordable Housing units in Hertsmere (see Table D2) i.e. in Borehamwood Bushey Bushey Heath Elstree Potters Bar Radlett Shenley
4	Add up the financial contributions for each type of housing	
5	Answer: Total Commuted Sum to be paid	

Worked examples are given at the end of this appendix.

The financial contribution sought for Affordable Housing will represent the land, servicing and purchasing costs which the Council or RP would need to pay to buy plots on the open market in order to develop Affordable Housing. Land costs typically represent 40% of the open market value of housing. Servicing and purchasing costs are estimated as 10% of the land cost (or 4% of the open market value). The full financial contribution, which will be sought therefore, represents 44% of open market value.

If off-site provision is agreed for reasons other than viability, the Council will look to maintain the ratio sought by Policy CS4 between market housing and Affordable Housing across the main site and the off-site provision, using the following formula for the number of affordable units (or equivalent payment):

<sup>1</sup> Where off-site provision is agreed for reasons other than viability, the Council will seek to maintain a ratio of 65% market housing to 35% affordable across most of the Borough or 60% to 40% in higher value areas defined in Policy CS4 across the main site and the off-site provision.

In areas where Policy CS4 requires 35% Affordable Housing

*(no. units on main site ÷ 0.65) - no. units on main site*

In areas where Policy CS4 requires 40% Affordable Housing

*(no. units on main site ÷ 0.6) - no. units on main site*

The standard financial contribution in Table D2 is based on Land Registry house price sales data for the 12 months to June 2015. It is disaggregated by area of the borough and type of housing so as to more fairly reflect differences in land value across Hertsmere.

There are some areas which fall outside the places covered in Table D2. This comprises a large part of the rural area (such as post code areas EN5 4 and WD25 8), where new housing development is not normally acceptable. Any 'standard financial contribution' here will be calculated on a site by site basis having regard to the prevailing residential property prices and land values in the locality. If a site covers more than a single post code area, the commuted payment will be based on the relevant proportion of development proposed within each post code. There are also recognised to be a limited number of small areas within some postcodes whose character is clearly different from the surrounding area and whose land values are very substantially lower or higher than the postcode average. In such locations, the contribution will be calculated on a site by site basis having regard to the prevailing residential properties and land value in that locality.

**Table D2: Standard Financial Contributions**

Place	Post code(s)	Contribution (£)1			
		Detached	Semi	Terrace	Flat/Mais
Borehamwood	WD6 1/2/4/5	£262,757	£191,094	£142,846	£100,191
Elstree	WD6 3	£574,243	£224,518	£178,386	£120,547
Bushey	WD23 2/3/4	£298,1709	£196,269	£176,559	£162,051
Bushey Heath	WD23 1	£417,112	£222,070	£170,276	£223,623
Potters Bar	EN6 1/2/3	£279,613	£192,036	£144,793	£109,203
Radlett	WD7 7/8	£627,323	£254,767	£226,043	£136,298
Shenley	WD7 9	£293,567	£226,550	£215,688	£88,286

The Council will aim to update the amounts quarterly subject to the availability of Land Registry data, and they may go up or down over time.

<sup>1</sup> Each contribution figure is based on the average sales prices provided by the Land Registry in the 12 months up to (and including) 30 June 2015. The average sales price figure is multiplied by 44% to calculate the standard financial contribution (the answer being rounded to the nearest hundred). For example, the average sale price of a detached property in Bushey Heath was £947,982: the standard financial contribution per detached house has been calculated as follows, £947,982 x 44% = £417,112 (rounded).

While it will be more common for any commuted sum to cover the full contribution a development site will make to Affordable Housing, it is also possible that a commuted sum could constitute part of that contribution. The other part would be Affordable Housing units themselves. This may be the case where full site delivery would present practical difficulties, or where a deferred payment or claw back arrangement is agreed. Where there is either a deferred payment/claw back arrangement or where the trigger for payment is dependent on a future date, the amount set out in the s106 agreement will be linked to future sales price changes. If there is a reduction in property prices below the amounts set out in Table E2, the Council will revert to the amount set out in the s106 agreement as the required payment.

**Worked Examples**

All of the examples below presume that the required level of Affordable Housing cannot be provided on site for reasons of viability.

Schemes 1 and 2 below assume that the full proportion of Affordable Housing can be provided for. They also assume that the full amount of Affordable Housing will be the subject of a commuted sum. However the method can be adapted for other circumstances, as in Scheme 3.

The total financial contribution for Affordable Housing that is shown for each scheme would then be linked or linked to future sales price changes.

**Scheme 1: Four detached dwellings in Radlett**

A contribution is sought because the site area exceeds the threshold size of 0.2 ha.

Housing units		Affordable housing		Standard sum £	Contribution sought £
Type	Number	Proportion	No. assumed		
Detached	4	40%	1.6	627,323	1,003,717
Total Affordable Housing Contribution sought					£1,003,717

**Scheme 2: Nine dwellings in Borehamwood (East): mix of unit types**

A contribution is sought because the number of units exceeds the threshold and the applicant has demonstrated that it would not be viable to provide the units on site or via any other means.

Housing units		Affordable housing		Standard sum £	Contribution sought £
Type	Number	Proportion	No. assumed		
Detached	2	35%	0.7	262,757	183,930
Terraced	3	35%	1.05	142,846	149,988
Flats	4	35%	1.4	100,191	140,267
Total	9	35%	3.15		474,185
Total Affordable Housing contribution sought					£474,185

**Scheme 3: Part Financial Contribution to 22 dwellings in Potters Bar**

A contribution is sought because the number of units exceeds the threshold and the applicant has demonstrated that it would not be viable to provide all of the units on site or by any other means. It is agreed with the Council and RP who will manage the Affordable Housing units:

- that 6 affordable terraced houses and flats should be provided on-site; and
- that a commuted sum is the appropriate way to support the delivery of the balance of Affordable Housing.

Housing units		Affordable housing		Standard sum £	Contribution sought £
Type	Number	Proportion	No. assumed		
Detached	3	35%	1.05	279,613	293,594
Semis	2	35%	0.7	192,036	134,425
Terraced	5	35%	2 (rounded)	N/A provided on-site	N/A provided on-site
Flats	12	35%	4 (rounded)	N/A provided on-site	N/A provided on-site
Total	22		7.75		428,019
Total Affordable Housing contribution sought					6 on-site units and £428,019

## Appendix E: Off-site Purchase of Land or Units

Paragraph 1.50 sets out the Council's preferred options for providing Affordable Housing in cases where on-site provision is not possible. Options 2 and 4 involve the purchase of land to be gifted to a RP or the Council. Option 3 involves the purchase of existing housing units to be sold to a RP or the Council at a discount.

This appendix provides further detail on the Council's requirements if these options are being considered.

### **Options 2 and 4: Purchase of land for a RP or the Council either within the same settlement (Option 2) or elsewhere in the borough (Option 4)**

The mechanisms for transferring the land and precise timings and requirements will be set out in individual Section 106 agreements.

For all cases where the purchase of land is being considered as an option, the following criteria need to be met:

- The location of the site needs to be discussed and agreed with the Council's appointed Housing Office and the relevant RP if it is proposed to transfer the land to an RP. Sites will need to be within existing residential locations.
- The site must have planning permission for the desired mix of units, so a concurrent application should be made for this land alongside the main application.
- The site must be cleared.
- The site must be serviced (gas, water, electricity, telephone line).
- The highway, drainage and street lighting need to be funded by the developer to adoptable standards and the developer will be responsible for a maintenance period.
- The developer will need to have met any CIL payments for the site (relief from CIL can be claimed for the development of Affordable Housing, however the development will be CIL liable and an exemption form must be submitted in order to claim the relief).
- The site would need to be transferred to the RP or the Council on a freehold basis.
- Site surveys will be required prior to the discharge of Section 106 obligations and before the transfer of the site. This is in order that any abnormal site costs can be identified before the site is transferred to an RP or the Council.

### **Option 3: Purchase of existing units within the Borough**

The mechanisms for transferring the land and precise timings and requirements will be set out in individual Section 106 agreements.

For all cases where the purchase of existing units is being considered as an option, the following criteria need to be met:

- The location of the units needs to be discussed and agreed with the Council's appointed Housing Office and the relevant RP if it is proposed to transfer the land to an RP. Where possible, units should be in a location where the RP already has a presence, and where more than 1 unit is required, they should not be widely spread around the borough unless they are in locations where the RP already owns and manages units.
- The market cost of the units must be agreed with the RP or the Council. The units will typically be sold to the RP or the Council at a 30%-40% discount on the market value, and the level of discount must also be agreed.
- The units must be purchased prior to the commencement of development. This will be a requirement of the Section 106 agreement.

- The condition of the units must meet the Home and Communities Agency Decent Homes Standard to enable them to be used as Affordable Housing immediately. All the relevant safety certificates for the units must be provided. (Decent Homes Standard link: [www.gov.uk/government/policies/improving-the-rented-housing-sector--2/supporting-pages/decent-homes-refurbishing-social-housing](http://www.gov.uk/government/policies/improving-the-rented-housing-sector--2/supporting-pages/decent-homes-refurbishing-social-housing))

## Appendix F: Affordable Housing Policy Checklist

- 1) Is this a qualifying site (i.e. more than 0.2 ha or 5 units) meaning that the policy and SPD are applicable to this proposal? (see para 1.14, p.3)
- 2) Is this a 35% or 40% area and so how much Affordable Housing is required? (see para 1.23, p.4)
- 3) What happens when the Affordable Housing requirement does not equate to a whole unit? (see para 1.24, p.4)
- 4) What mix of unit sizes is required to be affordable? (see para 1.25, p.4)
- 5) What is the required tenure mix of the affordable units? (see para 1.27, p.5, and Table 3, p.5)
- 6) Are fewer than 10 units proposed, in which case a commuted sum payment may be appropriate? (see Table 3, p.5 and Appendix D, p.26)
- 7) What are the design requirements for Affordable Housing? (see para 1.30, p.6)
- 8) Is there a requirement for any specialist Affordable Housing? (see para 1.34, p.6)
- 9) When is the Affordable Housing required to be developed? (see para 1.37, p.6)
- 10) Is there an exceptional reason to justify a lower level of provision or an alternative to on-site provision (e.g. an unsuitable site or demonstrated viability issues)? (see para 1.39, p.7)
- 11) If a commuted sum payment is required, how is this calculated? (see. Appendix D, p.26)
- 12) Who will manage the Affordable Housing? (see para 2.1, p.17)
- 13) Will the affordable homes 'be affordable'? (see para 2.3, p.17)

In addition to the above questions which the Planning Officer will need to clarify, the developer may want to know the answer to the following questions.

- 14) What is Affordable Housing? (see para 1.6, p.1)
- 15) What is the Council's policy basis for requiring Affordable Housing? (see para 1.1, p.1)
- 16) Is Affordable Housing required on C2 developments (e.g. extra care units)? (see para 1.16, p.3)
- 17) Who will occupy the Affordable Housing? (see para 2.5, p.17)
- 18) What rent can I charge and is it affordable? (see para 2.6, p.17)
- 19) Do I need to provide the Affordable Housing in perpetuity? (see para 2.8, p.17)

## Glossary

### *Abnormal Development Costs*

Costs associated with difficult ground conditions e.g. contamination.

### *Affordability*

A measure of whether housing may be afforded by certain groups of households.

### *Affordable Rent*

Rents charged can be no higher than 80% of the full market rent. They may be let by a RP to tenants eligible for social rented housing; rents charged should not therefore exceed the Local Housing Allowance rate.

### *Affordable housing*

Affordable housing includes social rented, affordable rented and intermediate housing, provided to specified eligible households whose needs are not met by the market.

### *Build Costs*

Including costs of construction: preliminaries, sub and superstructure; plus an allowance for external works.

### *Community Infrastructure Levy (CIL)*

A charge that allows local authorities to raise funds from developers undertaking new building projects in their area. The money collected can be used to help provide a wide range of infrastructure that is needed as a result of development. The levy is non-negotiable and is charged on a per square metre basis across a range of development uses.

### *Commuted Sum*

A sum of money paid by the applicant in lieu of providing Affordable Housing on site.

### *Developer Cost*

All-encompassing term including base build costs (see above) plus any additional costs incurred such as fees, finance and developer margin.

### *Developer's Profit or margin*

A sum of money required by a developer to undertake the scheme in question.

### *Equity Share*

The purchaser buys a percentage of the equity in a property and does not pay rent on the remaining share. The remaining equity is transferred to the Council or a RP. Equity Share can be low cost market housing and either freehold or leasehold. If sold, the purchaser and Council realise their respective percentages. If the purchaser staircases up to 100% of the property, the capital receipts will be ring-fenced to deliver more Affordable Housing and/or to tackle homelessness.

### *Existing Use Value (EUV)*

The value of a site in its current use; for example, farmland, industrial or commercial land.

### *Extra Care Development*

Sometimes referred to as very sheltered housing, this is a type of supported housing for older people that aims to enable them to live independently for as long as possible, live in appropriate housing and access flexible services that are responsive to their needs.

*Finance (developer)*

Usually considered in two ways. Finance on the building process; and finance on the land. Relates to current market circumstances.

*Gross Development Value (GDV)*

The total revenue from the scheme. This may include housing as well as commercial revenue (in a mixed use scheme). It should include revenue from the sale of open market housing as well as the value of affordable units reflected in any payment by a housing association(s) to the developer.

*Homes and Communities Agency (HCA)*

The non-departmental public body that funds new Affordable Housing in England.

*Intermediate Affordable Housing*

Housing at prices and rents above those of social rent, but below market prices or rents. It can include shared equity products (e.g. New Build HomeBuy), other low cost homes and intermediate rent, but does not include affordable rented housing.

*Land Value*

The actual amount paid for land taking into account the competition for sites. It should be distinguished from Residual Value (RV) which is the figure that indicates how much should be paid for a site.

*Lifetime Homes*

The Lifetime Homes Standard is a series of sixteen design criteria intended to make homes more easily adaptable for lifetime use at minimal cost. The concept was initially developed in 1991 by the Joseph Rowntree Foundation and Habinteg Housing Association.

*Local Plan*

A suite of planning documents which guides development in an area over a certain period of time, encompassing DPDs (Development Plan Documents) and SPDs (Supplementary Planning Documents).

*Low cost market housing*

Low cost (discounted) open market housing is housing provided at a discount to the full market value, usually between 20% and 40% below market value. The purchaser owns the whole property, there is no third party. According to the NPPF definition, it cannot be considered as Affordable Housing for planning purposes.

*Market housing*

Private housing for rent or for sale, where the price is set in the open market.

*National Planning Policy Framework (NPPF)*

Sets out the Government's planning policies for England and how these are expected to be applied.

*Planning Obligation*

A contribution, either in kind or in financial terms which is necessary to mitigate the impacts of the proposed development. Affordable housing is a planning obligation as are, for example, education and open space contributions (see Section 106).

*Registered Provider (RP)*

An independent, registered, non-profit making organisation to build, improve and manage Affordable Housing for sale or rent. An RP must be registered with and regulated by the current government regulating authority.

*Residual Value (RV)*

The difference between Gross Development Value (GDV) and total scheme costs. RV provides an indication to the developer and/or land owner of what should be paid for a site. Should not be confused with land value (see above).

*Planning Obligations*

Planning obligations are agreements entered into between the Council and developers, usually in conjunction with the granting of planning permission. Planning obligations apply to land, binding it and whoever owns it. They are made using powers under section 106 of the Town and Country Planning Act 1990, which is why they are also called "section 106" or "s106" agreements.

*Section 106 (of the Town and Country Planning Act 1990)*

A legally binding agreement between the parties to a development; typically the developer, housing association, local authority and/or land owner. The agreement runs with the land (see Planning Obligation).

*Shared Equity*

Shared equity schemes give the purchaser a loan that acts as part of the deposit on a property. A mortgage is still required on the remainder of the property price, but because the loan counts towards your deposit you may be able to take out a mortgage where you might otherwise struggle. Legally, the purchaser owns 100% of the property.

*Shared Ownership*

The purchaser buys a percentage share of a property and pays rent on the share that they do not own. Shared Ownership properties are always leasehold but the purchaser may gradually acquire the freehold in stages from the RP (known as 'staircasing').

*Social Rented Housing*

Rented housing owned and managed by local authorities and RPs, for which guideline target rents are determined through the national rent regime. It may also include rented housing owned or managed by other persons and provided under the same rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant. Rents are lower than affordable rents, typically at 40%-60% of market rents.

*Sub Markets*

Areas defined in the Viability Study by reference to house price differentials. Areas defined by reference to postcode sectors, or amalgams thereof.

*Supplementary Planning Documents (SPDs)*

These provide specific policy guidance in respect of policies in the Local Plan Core Strategy and other Development Plan Documents. They are not subject to independent examination.

*Tenure Mix*

Development schemes usually comprise a range of housing tenures. These are described above including market and Affordable Housing.

### *Use Class*

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. Those referred to in this document are C2, residential institutions (includes residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres) and C3, dwellinghouses (this includes single family house, supported housing schemes where people live as a single household and groups of up to 6 unrelated people living as a single household).

### *Viability*

Financial variable that determines whether a scheme progresses or not. For a scheme to be viable there must be a reasonable developer and land owner return. The scale of land owner return depends on the planning process itself.

### *Viability Appraisal*

Development calculation taking into account scheme revenue and scheme cost and accounting for key variables such as house prices, development costs and developer profit.