



# **Royal Borough of Windsor and Maidenhead**

## **Affordable Housing Planning Guidance Document**

## 1.0 Introduction and Purpose

- 1.1 The need for affordable housing in the Borough is significant and the Council is committed to doing all it can to address this need and ensure it is a place for everyone. The Council does this through a variety of means, including requiring developers to make provision towards affordable housing. This requirement is set out in the adopted Local Plan 1999 which provides the current framework for future development in the Borough.
- 1.2 The current Local Plan 1999 Policy H3 - *Affordable housing* sets out the circumstances in which new affordable housing will be delivered through the planning system.
- 1.3 A Planning Guidance Document is a document which contains additional detail and guidance on how the Local Planning Authority (the Council) will interpret and apply its approach to affordable housing.
- 1.4 This Planning Guidance Document is intended to provide further information and guidance to developers in line with national guidance.
- 1.5 This is to provide a clear framework for Developers and the Public to understand how affordable housing will be delivered.
- 1.6 It is therefore recommended that applicants refer to this document for detailed guidance in the early stages of feasibility reviews, site negotiations, project planning and site design, with cross-reference to planning policies in the Local Development Documents.
- 1.7 By following the advice in this document, planning applications have a greater chance of gaining planning permission as they should be in line with the policies in the Borough's development plans and national policy.
- 1.8 Alongside this the Council is developing a new Borough Local Plan which it plans to submit to the Planning Inspectorate in April 2017.
- 1.9 It has not been necessary to prepare a sustainability appraisal as there is no requirement to do so under current Regulations.
- 1.10 In accordance with the Equality Act 2010, an Equality Impact Assessment (EIA) is being prepared.

## 2.0 Affordable housing need in the Royal Borough of Windsor and Maidenhead

- 2.1 The following provides some key facts about affordable housing need in the Borough taken from the Strategic Housing Market Assessment (SHMA) for Berkshire 2016.

Average House Prices by Type (2014) (Source: Land Registry 2015):

LA (£)	Detached	Semi	Terrace	Flat	Median	Mean
RBWM	635000	390500	370000	272000	387000	492198

Monthly Median Rents (2014) (Source VOA 2015 – Median includes room and studio costs):

LA (£)	1 bed	2 bed	3 bed	4 bed	Median
RBWM	825	1150	1350	2350	1150

**Table 28: Housing Types, % of Dwellings by Local Authority, 2011**

	Detached	Semi-Detached	Terraced	Flat	Caravan
Bracknell Forest	27%	21%	32%	19%	2%
Reading	12%	25%	30%	32%	0%
Slough	10%	28%	28%	34%	0%
South Bucks	41%	24%	14%	19%	2%
West Berkshire	34%	33%	18%	14%	1%
RBWM	31%	25%	19%	24%	1%
Wokingham	45%	29%	15%	11%	1%

Source: 2011 Census

**Table 30: Dwellings by Tenure Type, 2013**

	Owned Outright	Owned with a Mortgage	Shared Ownership	Rented from Council	Rented from RP	PRS	Other
Bracknell Forest	24.9%	43.6%	1.1%	5.7%	11.1%	10.6%	3.0%
Reading	22.6%	32.2%	1.8%	10.1%	6.2%	24.7%	2.4%
Slough	18.7%	34.0%	1.4%	13.1%	7.5%	23.1%	2.2%
South Bucks	38.1%	35.3%	1.5%	1.0%	11.3%	10.0%	2.8%
West Berkshire	31.2%	38.5%	1.1%	0.9%	12.9%	12.0%	3.4%
RBWM	32.6%	35.4%	0.6%	1.2%	12.1%	13.9%	4.2%
Wokingham	35.6%	44.2%	1.1%	4.7%	2.3%	9.9%	2.2%

Source: ONS, Census 2011

**Table 81: Estimated level of Affordable Housing Need per annum – by HMA and local authority**

Area	Current need	Newly forming households	Existing households falling into need	Total Need	Supply from existing stock	Net Need
Bracknell Forest	40	426	135	601	374	227
Reading	105	522	343	970	564	406
West Berkshire	44	393	208	645	457	189
Wokingham	42	477	76	594	153	441
<b>Western Berkshire HMA</b>	231	1,818	762	2,810	1,548	1,263
Slough	180	743	282	1,205	534	671
South Bucks	29	207	51	287	120	167
RBWM	68	548	154	769	335	434
<b>Eastern Berks and South Bucks HMA</b>	277	1,498	487	2,261	988	1,273
Study area	508	3,315	1,248	5,072	2,535	2,537

Source: 2011 Census/CoRe/Projection Modelling and affordability analysis

**Table 108: Estimated size of accommodation required by number of bedrooms (2013 to 2036) – Affordable Sector**

Local authority		1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms	Total
Bracknell Forest	No.	1,306	1,278	800	122	3,507
	%	37.3%	36.5%	22.8%	3.5%	100.0%
Reading	No.	1,490	1,129	741	72	3,433
	%	43.4%	32.9%	21.6%	2.1%	100.0%
West Berkshire	No.	1,719	1,156	600	56	3,530
	%	48.7%	32.7%	17.0%	1.6%	100.0%
Wokingham	No.	1,657	1,507	1,001	132	4,296
	%	38.6%	35.1%	23.3%	3.1%	100.0%
<b>Western Berkshire HMA</b>	No.	6,172	5,070	3,141	382	14,766
	%	41.8%	34.3%	21.3%	2.6%	100.0%
Slough	No.	2,269	1,637	1,180	243	5,329
	%	42.6%	30.7%	22.1%	4.6%	100.0%
South Bucks	No.	923	692	516	33	2,165
	%	42.6%	32.0%	23.8%	1.5%	100.0%
RBWM	No.	2,095	1,081	849	70	4,095
	%	51.2%	26.4%	20.7%	1.7%	100.0%
<b>Eastern Berks &amp; South Bucks HMA</b>	No.	5,287	3,411	2,545	346	11,589
	%	45.6%	29.4%	22.0%	3.0%	100.0%
Study areas	No.	11,459	8,481	5,686	729	26,355
	%	43.5%	32.2%	21.6%	2.8%	100.0%

Source: Housing Market Model

### 3.0 Policy context

- 3.1 The National Planning Policy Framework<sup>1</sup> (NPPF) sets out the Government's commitment to significantly increase the supply of housing. Local authorities are expected to ensure their Local Plan (Local Development Documents) meets the full and objectively assessed needs for market and affordable housing in the housing market area, unless the adverse impacts of doing this would significantly outweigh the benefits when assessed against all the policies in Local Development Documents (LDD), or where LDD policies indicate that development should be restricted.
- 3.2 To ensure an area delivers a wide choice of high quality homes, to broaden opportunities for home ownership and create sustainable, inclusive and mixed communities, local authorities are expected to:
- plan for a mix of housing based on current and future demographic trends, market trends and needs of different groups in the community
  - identify the size, type and tenure and range of housing required in different locations, reflecting local demand
  - where a need for affordable housing is identified, set policies for meeting this need on-site, unless off-site provision or a financial contribution can be robustly justified, and contribute to creating mixed and balanced communities.
- 3.3 The current Local Plan 1999 Policy H3 - *Affordable housing* sets out the circumstances in which new affordable housing will be delivered through the planning system.
- 3.4 The Council's four year Corporate Strategy 2016-2020 sets out a priority to ensure that there is an increased range of housing in the Borough.
- 3.5 The Affordable Housing Planning Guidance Document draws on key evidence base studies.
- A Strategic Housing Market Assessment (SHMA) was completed in 2016. The assessment contains information about housing costs (market, rental and affordable), incomes, population growth, affordable housing, and housing need.
  - The Community Infrastructure Levy Viability Study (This is a viability assessment of the Community Infrastructure Levy (CIL) the Borough's charging rate, to ensure that they are set at a reasonable level.
- 3.6 In line with the Council's Statement of Community Involvement (SCI), some applicants will be expected to carry out pre-application consultation, commensurate to the scale of the proposed development.
- 3.7 The Council approved a Community Infrastructure Levy (CIL) Charging Schedule in August 2016 which was brought into effect from 1 September 2016. This will require the payment of CIL on most new developments as the primary means of securing developer contributions towards infrastructure provision in the Borough. These requirements are set out in the Council's Charging Schedule. Affordable housing that is subject to application for relief and qualifies will be exempt from the CIL charge. Affordable housing provision / contributions will continue to be sought through a Section 106 planning obligation.

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<sup>1</sup> The National Policy Planning Framework replaced PPS3: Housing in March 2012.

- 3.8 The Borough wide affordable housing planning policy is provided by current policy H3 *Affordable Housing*. However, plan-making does not stand still. In the future the development plan for this area will also include adopted Neighbourhood Plans. One neighbourhood plan is already adopted for Ascot, Sunninghill and Sunningdale and a number of communities are already working to prepare a neighbourhood plan for their area.
- 3.9 A Neighbourhood Plan - sometimes called a Neighbourhood Development Plan - is a way of helping local communities to influence the planning of the area in which they live and work. A Neighbourhood Plan can be used to: develop a shared vision for a neighbourhood; choose where new homes, shops, offices and other development should be built; identify and protect important local green spaces; and/or influence what new buildings should look like.
- 3.10 In this way, a Neighbourhood Plan can decide where and what type of development should happen in the neighbourhood. It can promote more development than is set out in the Council's Local Development Documents (LDD), but must not conflict with LDD strategic policies. So, for example, a neighbourhood plan could not adopt its own affordable housing policy. A community may wish to use their Neighbourhood Plan to seek to provide more affordable housing in their area, for example to help to meet housing needs of young people in their own community.

## 4.0 Affordability

- 4.1 The definition for this document of 'affordable housing' is as follows:

*"In relation to housing, 'affordable' means accommodation which meets the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices; and include provisions for:*

- 1. the home to be retained for future eligible households; or*
- 2. if these restrictions are lifted, for any subsidy to be recycled for alternative affordable housing provision.*

- 4.2 This is taken to mean housing which meets and continues to meet the needs of people on low and middle incomes who would otherwise not be able to attain housing locally on the open market. Affordable housing is that which can be afforded where the dwelling has the smallest number of rooms appropriate to meet the needs of a household which cannot afford to buy or rent on the open market without some form of subsidy.
- 4.3 The preferred means of delivery of affordable housing in line with national policy is either:
- Affordable or social rent (including for key workers and armed forces personnel),
  - Shared equity schemes (including for key workers and armed forces personnel),
  - Subsidised low cost market housing for sale or rent (including for key workers and armed forces personnel),
  - Off site provision - This is only considered suitable in exceptional circumstances, and can be offered via land, buildings, or financial contribution. This will be controlled with a planning obligation.
- 4.4 The affordability of affordable housing is a primary issue and should be borne in mind in setting rents and sales prices.

- 4.5 Affordable housing is provided to “*eligible households whose needs are not met by the market*”<sup>2</sup>. It therefore follows that affordable housing must be as affordable as possible to households on the lowest incomes, particularly those that are working and have no recourse to benefits.
- 4.6 The Borough is one of the most unaffordable areas of the country, both for rented and property purchase. Affordability is therefore a particular issue in the Royal Borough.
- 4.7 The Council is keen to ensure that the new affordable housing provided in the Borough is affordable to the greatest number of households.
- 4.8 The Council introduced a revised Housing Allocations Policy in April 2013. This sets out the requirements and circumstances for eligible persons to be registered for assistance through the council’s allocations system. More information on the Council’s Housing Allocations Policy can be found at [www.rbwm.gov.uk](http://www.rbwm.gov.uk)
- 4.9 Housing that is affordable can take a variety of forms. Those which the Council accept as affordable are set out below. For each type the Council views them as being potentially for key workers and armed forces personnel.
- 4.10 **Social Rent** - This is housing owned by local authorities (councils) and private registered providers (as defined by section 80 of the Housing and Regeneration Act 2008). Guideline target Social Rents are determined through the national rent regime. Social rented homes 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 (HCA).
- 4.11 **Affordable Rent** - Until April 2011 the main affordable rented tenure was Social Rent (see definition above). Rents were fixed by each Registered Provider in accordance with the National Rent Regime and the Registered Providers’ own target rents. In April 2011 the Government, through the Homes and Communities Agency (HCA), introduced a new affordable rented tenure, “Affordable Rent”, as part of the overall changes to the funding and delivery of affordable housing. The HCA guidance states the maximum rental level for Affordable Rent should be no more than 80% of gross market rent (inclusive of service charges). This means that the Affordable Rent can be up to 80% of the local Market Rent. The HCA advice expects Affordable Rent to be the main affordable housing product delivered through its current programmes.
- 4.12 The Council wants to ensure that Affordable Rent levels in the Royal Borough remain affordable. It will therefore expect housing providers to avoid setting rent levels that risk households being unable to afford to rent. RBWM recommends the following principles for Registered Providers when applying Affordable Rent in the Borough:
- Affordable Rent should ideally not be more than local Housing Allowance levels
  - Affordable Rent for properties with 3+ bedrooms should not be higher than 60% of market rents.
  - Affordable Rent should not be set on sheltered accommodation because tenants will have a fixed income.
- 4.13 The Council acknowledges that the differential between Social Rent and Affordable Rent is less for 1 and 2 bedroom properties.

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<sup>2</sup> National Planning Policy Framework

- 4.14 The HCA Guidance is clear that Affordable Rent is now the principal affordable rental approach; however, there is still limited scope for Social Rent. The two tenures therefore co-exist; this is reiterated in the definitions of Affordable Housing in the National Planning Policy Framework.
- 4.15 **Intermediate Housing** - This is housing for sale or rent provided at a cost above Social Rent, but below market levels subject to the criteria in the Affordable Housing definition above. This can include shared ownership and shared equity, other forms of affordable ownership and intermediate rent, but not affordable rented housing. Common models for intermediate housing include shared equity, intermediate rent and shared ownership housing.
- 4.16 **Shared Equity** - This is where the purchaser acquires the whole property but effectively only pays a proportion of the value, the remaining value is secured by an equity loan.
- 4.17 **Intermediate Rent** - Intermediate rent is housing available at a rent above Social Rent costs but below Market Rent levels. Generally these properties are reserved for specific groups of tenants e.g. keyworkers and are let on short term tenancies.
- 4.18 **Shared Ownership** - The purchaser buys a proportion of the value of the home (25% upwards, usually no more than 70%) and the remaining share is kept by the freeholder, which is usually a Registered Provider. A subsidised rent is paid for the remainder of the equity. Shared ownership housing must be:
- for eligible households with a maximum household income of £60,000, who cannot afford to purchase on the open market, and
  - significantly more affordable than existing similar second hand market properties in the same area of the Borough, and
  - affordable to the majority of Applicants on the housing register List who live or work in the Borough.
- 4.19 **Housing not classed as affordable housing** - Dwellings that do not meet any of the above definitions of affordable housing tenures, such as “low cost market” housing, will not be considered as affordable housing for planning purposes until national legislation changes. This is in accordance with the National Planning Policy Framework definition of affordable housing.
- 4.20 **Agricultural workers’ dwellings** - Agricultural workers’ dwellings (or similar self-contained accommodation) that would demonstrably address an identified essential accommodation need and of which occupancy would be tied to that use in perpetuity will be considered to already meet an affordable housing need and will, be considered affordable housing, as will any property let by a private registered provider of social housing, a registered social landlord or a local housing authority on an assured agricultural occupancy<sup>3</sup>.
- 4.21 **Other accommodation types allowed social housing relief from CIL**- Other housing types benefitting from social housing relief under the CIL Regulations 2010 (s.49) will also be considered affordable housing.

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<sup>3</sup> The Community Infrastructure Levy Regulations, England and Wales, 2010 (2010 No. 0000)



## 5.0 Requirements for affordable housing provision

- 5.1 Local Plan Policy H3 applies to all types of residential development sites including change of use (conversion), mixed use sites that incorporate an element of residential development, older persons housing such as sheltered and extra care schemes and any other development where there is a **net increase** in the number of Class C3<sup>4</sup> residential units on the site.
- 5.2 The Council will not seek an affordable housing contribution from specialist, non-Class C3 residential developments such as traveller accommodation (a sui generis use), and any C2 uses such as nursing/residential care homes as on-site provision is often not suitable and as the Council wishes to encourage the provision of these specialist forms of accommodation where an identified need exists. However, if the extent of care is limited in a nursing home, such a use will be treated as a C3 use, which will require affordable housing provision.
- 5.3 Policy H3 does not apply to developments where there will be no net increase in the number of dwellings on the site. The number of net additional dwelling is the number of proposed dwellings less the number of existing dwellings to be demolished. Any dwelling with a separate Council Tax registration is counted as a dwelling.
- 5.4 Where additional homes are being provided on a site where there are existing units that will remain, Policy H3 will apply to the net increase only.
- 5.5 Care homes and nursing homes (Use Class C2) that generally provide non-self contained accommodation are not required to provide affordable housing. However the circumstances of each case will be considered based on the level of self-containment.
- 5.6 Live-work units will be treated as a residential unit for the purposes of applying Policy H3.
- 5.7 Renewals of an existing planning permission for a residential development will be assessed against the most up to date planning policy requirements, including the requirement to make an affordable housing contribution under Policy H3.
- 5.8 Agricultural workers' dwellings (or similar self-contained accommodation) that would demonstrably address an identified essential accommodation need and of which occupancy would be tied to that use in perpetuity will be considered to already meet an affordable housing need and will not be expected to contribute further under H3. Any property let by a private registered provider of social housing, a registered social landlord or a local housing authority on an assured agricultural occupancy<sup>5</sup> will similarly be considered to already meet a housing need. However, if an application is received in the future seeking to amend a condition or legal agreement to lift such a tie or allow alternative occupation of the property, appropriate planning benefits will be expected, including in relation to Policy H3.
- 5.9 To support the delivery of affordable homes in accordance with Policy H3, the Council will expect a site that has been sub-divided into smaller development schemes to provide the appropriate level of affordable housing that would have been achieved had the whole site come forward as a single scheme.
- 5.10 Similarly, the Council will resist development proposals which seeks permission for a development lower than that characteristic of the area, where this would fail to make

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<sup>4</sup> see Use Classes Order 1987 (as amended)

<sup>5</sup> The Community Infrastructure Levy Regulations, England and Wales, 2010 (2010 No. 0000)

efficient use of land and avoids otherwise greater affordable housing policy requirements under Policy.

- 5.11 All planning applications requiring affordable housing provision on site or through a proposed alternative site or those providing actual financial contributions for provision in an alternative off-site location should be supported by a Statement of Affordable Housing Proposals - see template attached at **Appendix A**. Applications not containing a Statement of Affordable Housing Proposals - and a Financial Viability Appraisal if appropriate - will not be registered as valid.
- 5.12 The Council will expect that the existing number of affordable homes on a site will be safeguarded and reflected in any redevelopment. This is predicated on the basis that planning policy seeks to increase the amount of affordable housing in the Borough to take account of identified need. Whilst redevelopment of a site which replaces older affordable housing stock with new is often to be welcomed, this cannot be supported at the expense of a reduction in the overall number of affordable homes on the site.
- 5.13 In most cases the Council would expect the same number, size, and tenure, of units to be re-provided on-site or to be provided on an alternative site in parallel. The replacement units will be secured through a legal agreement or undertaking, which will specify the timing/phasing of provision include relevant trigger point(s).
- 5.14 In exceptional circumstances the Council may not require all of the existing units to be replaced, for example:
  - Where the location of the site is not considered suitable or sustainable for affordable housing,
  - Where the existing affordable housing is vacant and has been for a considerable time and the Council considers there is no reasonable prospect of it coming back into re-use,
  - Where a better balance of size of affordable units is required.
- 5.15 Where replacement is not required the Council may negotiate a financial contribution in lieu of replacement.
- 5.16 In calculating the number of units to be provided by a development, the Council will always round to the nearest number of whole units.
- 5.17 A standard mathematical approach to rounding will be taken. Where applying 30 per cent (or any other target that the development will stand, higher or lower) achieves 0.5 or more of a dwelling, the approach will be to round up. For example, in a scheme of 15 dwellings, applying 30% gives 4.5 dwellings, which would be rounded up to a requirement for 5 affordable homes. Anything below 0.5 will be rounded down. For example, in scheme of 18 dwellings, applying 30% gives 5.4 dwellings, which would be rounded down to 5 homes.
- 5.18 Policy H3 seeks a 30% affordable housing provision for all sites of 15 net units or 0.5 ha or more in size. This is the total, gross area of the application site. No areas are to be discounted when assessing the size of a development site for the purposes of H3. Policy H3 does not conflict with the Written Ministerial Statement of 28 November 2014.
- 5.19 The Council will expect the developer to enter into an appropriate Section 106 Agreement covering all aspects of the delivery of affordable housing outlined above. The content of the agreement can vary considerably from site to site, however Appendix C lists the main

issues that will be included in most agreements. The Council has a standard template but will draft an appropriate agreement for larger sites, for which a fee is payable. The fee will depend on the complexity of the agreement.

### **Vacant Building Credit**

5.20 National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

5.21 What is the process for determining the vacant building credit?

Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in Policy H3. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

5.22 The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

## **6.0 Design, Integration and Community Cohesion**

6.1 In designing affordable housing, account should be taken of the following design requirements:

- The affordable housing should be delivered in parallel to the market housing, i.e. not significantly in advance of, or later than the remainder of the development.
- Where on-site infrastructure or services are required (e.g. new bus route, schools etc.) the affordable housing should not be delivered until these facilities have been provided.
- Car parking spaces should be allocated to the affordable homes on the same ratio as for market housing units.
- The affordable housing should be spread around the whole development – not just in one location. Clusters of affordable housing are preferred rather than “pepper-potting”.
- The affordable housing should have good access to local or new, transport facilities, shops, play space etc.

- Affordable housing needs to be integrated into the new development, its appearance in terms of design, materials and appearance and layout should not differentiate it from the remainder of the development.
  - Affordable homes should meet the latest design and quality codes and standards set out by the Homes and Communities Agency or other relevant body, as well as national guidance.
- 6.2 Lifetime Homes are homes designed to incorporate 16 Design Criteria that can be universally applied to new homes at minimal cost. Each design feature supports the changing needs of individuals and families at different stages of life. Lifetime Homes are all about flexibility and adaptability
- 6.3 The Council encourages new developments to incorporate the principles of Lifetime Homes and that new specialist accommodation should incorporate “Lifetime Homes” standards and be readily adapted to meet the needs of those with disabilities and the elderly.
- 6.4 The Council’s preference is for affordable housing to be provided and managed by Registered Providers (RPs) or through RBWM Property Company.
- 6.5 However, it ultimately is for the developer to make their own choice regarding which organisation(s) to proceed with. If a developer wishes to provide the affordable housing other than through these routes the Council will give careful consideration taking account of a number of matters, including:
- rent levels
  - local management base and arrangements for interaction with tenants
  - management arrangements for external amenity space
  - nomination arrangements
  - agreement to the Local Lettings Policy arrangements
  - participation in community initiatives; and other criteria
  - track record in delivering and funding affordable housing
- 6.8 In all cases the provider of on-site affordable housing will be required to meet the requirements in this document.
- 6.9 Policy H3 is intended to meet identified local housing need, it is therefore important that households with an established local connection with the Borough, are given priority for the affordable housing provided through these policies.
- 6.10 Providers of affordable housing will be required to enter into a nomination agreement with the Council. The Council’s usual requirement is to include a “nominations protocol” in the Section 106 agreement signed by the landowner or developer. The Council will normally require:
- For rented housing:
    - Initial lets – 100% nominations
    - Relets – 75% nominations
    - All lets not subject to nominations being given priority for local households
  - For shared ownership

Initial sales – 100% nominations  
Resales – 100% nominations  
All sales not subject to nominations being given priority for local households

- 6.11 Nominations will normally be made from within the Council's Housing Options Team. The nomination obligations will be required to be passed to any future owners of the affordable dwellings, or be provided elsewhere.
- 6.12 To ensure that the affordable housing is delivered before the market housing is completed the council will normally include a number of triggers in the agreement.
- 6.13 These may vary from site to site, but would usually be:
- Not to allow or permit occupation of more than 25 per cent of market dwellings until a contract has been entered into with a Registered Provider or equivalent to deliver the affordable housing in accordance with an Affordable Housing Scheme approved by the Council.
  - Not to allow or permit occupation of more than 50 per cent of market dwellings until the affordable housing has been completed and transferred and is ready and available for occupation e.g. with all access roads and paths completed and safe for use.
- 6.14 The definition of Affordable Housing in the NPPF makes it clear that affordable housing must remain affordable into the future. It therefore follows that there must be safeguards that either preserves the status of the affordable housing, or if it is no longer used for affordable housing, for it to be replaced or for resources to be recycled to replace the dwellings.
- 6.15 Affordable housing provided through the Council's planning policies must be maintained as affordable housing or replaced (see also next).
- 6.16 The Council will therefore require provisions in the Section 106 agreement that:
- Keep the units within the definition of affordable housing, and
  - Require any purchaser (other than an occupier) to preserve the accommodation as affordable housing, or replace it within the Borough like for like, and
  - Require any purchaser to take on the obligations in the nomination agreement or enter into a replacement nomination agreement.
- 6.17 In formulating proposals for affordable housing, Applicant's should be aware of the limitations on the funding of affordable housing and the price that affordable housing providers can pay for affordable housing dwellings.
- 6.18 Generally all of the above matters covered in this Section should be included in a Section 106 Agreement.
- 6.19 An Affordable Housing Scheme should be submitted where affordable housing is to be delivered on-site or on an alternative site. It should set out how the Applicant proposes to achieve on-site or alternative site affordable housing delivery working with a Registered Provider. The most common details to be provided in the Affordable Housing Scheme (AHS) are listed in **Appendix D**.

6.20 There may be circumstances - particularly in the case of outline planning applications - where the details of all the relevant matters may not yet be finalised. In such cases of on-site affordable housing delivery, the Section 106 will contain a requirement for the submission and approval of an Affordable Housing Scheme (AHS). The AHS would normally need to be submitted and approved prior to the commencement of the development or the affordable housing units; and in the case of Outline applications, prior to, or as part of, the Reserved Matters application.

## **7.0 Delivery of affordable housing off site – financial contributions**

7.1 Only in a relatively limited range of circumstances will it be appropriate for a scheme that proposes fifteen net units or more net additional dwellings to make an off-site affordable housing financial contribution in lieu of on-site provision or actual provision on an alternative site. For example, for clear housing management reasons or in the interests of the effective distribution of affordable housing across the Borough.

7.2 Policy allows for off-site financial contributions to be made in these limited circumstances. Financial contributions are also required of all small schemes (those providing one to four net additional dwellings) and, assessed on a case by case basis, may also be sought (in place of on-site provision) from schemes of five to nine dwellings. These requirements are summarised in **Figure 1** and explained above.

7.3 Contributions will be ring-fenced and used to provide affordable housing elsewhere in the Borough. Where possible this will be in the same locality as the development making the contribution, however contributions may be directed to other schemes which make a positive contribution to facilitating delivery of affordable homes through other mechanisms.

7.4 The Council will seek a financial contribution, that will allow affordable housing providers to secure the land in lieu of and equivalent to on-site provision.

7.5 The Council will use the following 'residual land value' formula to calculate financial contributions where these are required and appropriate.

7.6 This approach involves approximating the land value that needs to be replaced elsewhere and allowing for the cost of acquiring and servicing that land e.g. providing access and utilities. The applicable affordable housing percentage (according to Policy) is then applied to this figure. This method of calculation is widely used.

7.7 It is recognised that this approach represents only one method of calculating such contributions. It is recommended that you seek advice from a suitably qualified independent surveyor should you wish to put forward an alternative method of calculation. The Council will consider all alternatively calculated contribution figures in the context of its viability assessment evidence. Any calculations producing contribution figures less than those generated by the Council's formula approach will be questioned.

7.8 The Council will usually require financial contributions to be paid on commencement of the development.

### **Figure 1- Financial contribution calculation (from residential development)**

**Step 1** - Open Market Value (OMV) of the relevant or comparative property divided by the size of that property and multiplied by the affordable housing property size equivalent (see earlier **Table 2** for affordable property size equivalents)

**Step 2** - Multiply by the residual land value (RLV) percentage at 30% to get the base plot value for that unit.

**Step 3** - Add 15% to the Step 2 figure, to reflect site acquisition and servicing costs, this gives the per unit sum approximate value for that property type – free serviced land basis.

**Step 4** - Apply to Step 3 figure, the relevant policy percentage in Policy H3 (10% to 50% dependent upon the scheme size and whether the land is brownfield or Greenfield, private or public land) and multiply by the net number of units in the development.

= *total financial contribution*.

7.9 The national Local Housing Delivery Group provides a useful definition of development viability:

*“An individual development can be said to be viable if, after taking into account of all costs, including central and local government policy and regulatory costs and the cost and availability of development finance, the scheme provides a competitive return to the developer to ensure that the development takes place and generates a land value sufficient to persuade the land owner to sell the land for the development proposed”<sup>6</sup>.*

7.10 Tests of financial viability need to be robust, firstly to ensure the delivery of the affordable housing target and secondly to be fair to the developers of other sites.

7.11 If a Financial Viability Appraisal (FVA) is submitted with a planning application it must meet the minimum requirements outlined next and in Appendix B. A FVA should comprise

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- A Summary clearly stating the exceptional reasons that make the site unviable; a request to vary the usual affordable housing requirements, and a summary of the main costs, revenues and assumptions etc.
- A Detailed Appraisal containing the information in Appendix B as a minimum together with supporting evidence.

7.12 The following should also be noted:

- each cost, value, revenue, assumption etc. must be evidenced from an independent expert or source
- any assumptions must be explained in detail – in line with the Viability in Planning guidance document (RICS, 2012), please provide a written summary in the application correspondence describing the viability figures provided, giving evidence for all assumptions made, and identifying all information sources.
- the Council will assume that:
  - o the cost of meeting the affordable housing requirements in Policy CS12 should be reflected in the price paid, or price to be paid, for the land, and should be based on:
    - no public subsidy or grant
    - payment by the provider of the affordable housing should meet current HCA Guidance, i.e. less than market value.
- abnormal site costs should be reflected in the price paid, or to be paid, for the land.

7.13 The Council will carry out an assessment of the FVA to determine whether the information and data submitted supports the Applicant's request to vary the affordable housing requirements on the basis of financial viability.

7.14 The Council will seek independent professional advice on submitted viability assessments where agreement cannot be reached on the projected costs and values of a proposed scheme, and its resultant viability. This professional advice is also required on completion of a development where an overage clause is employed to check and substantiate the final costs and values. The developer will be asked to pay for the Council's reasonable costs in relation to independent expertise. As an indication, a typical independent viability costs £1,000.

7.15 The applicant's written agreement to pay these reasonable costs will be required before the Council appoints an independent professional adviser. If that written agreement is not received within the time specified by the case officer, the Local Planning Authority will proceed to determine the application on its current merits.

7.16 The application process, including any FVA must be open and transparent. However the Council recognises that some of the information or data in a FVA may be commercially sensitive. In some instances views may differ on whether a piece of information should be treated as confidential. If the Council wishes to put information into the public domain that an Applicant deems to be confidential, as a matter of procedure, the Council will notify the Applicant of its intention to publish before doing so.

7.17 The Applicant must make it clear which, if any, information or data is commercially sensitive. The Council will make a judgement as to which information is placed in the public domain. Generally the Council will put the Summary in the public domain and treat the Detailed Appraisal as confidential; however there may be exceptions to this.



7.18 A Financial Viability Appraisal is only current at the time it is made. Financial viability will change over time and with the changing economic and property markets. On large sites, that are expected to build or sell over a number of years, and particularly where the planning application is in outline, a FVA may be required for each phase and will need to be updated when the Reserved Matters application is made or prior to the commencement of each phase.

7.19 The Council would not expect such considerations to result in any renegotiation of contributions already agreed, through the outline decision, towards other types of infrastructure.

7.20 However the Council may advise, in cases where viability to meet all development requirements is demonstrably not possible, that the provision of affordable housing is more important than provision of other non-essential infrastructure. In such cases, the Council will negotiate to revise contributions towards those other infrastructure elements whilst continuing to require the full affordable housing provision / contribution.

7.21 Where the Council is satisfied that the usual policy requirements for affordable housing cannot be met in full due to financial viability, the Council will decide on:

- a reduced affordable housing requirement, or
- a reduced affordable housing requirement, coupled with claw back of the remaining affordable housing financial contribution through an overage clause if the development of the site proves to be more financially viable than the original Financial Viability Appraisal suggests, or
  - no affordable housing requirement but claw back of the full affordable housing financial contribution through an overage clause if the development of the site proves to be more financially viable than the original Financial Viability Appraisal suggests
  - if the Council considers affordable housing the priority, it will seek to renegotiate other non-essential infrastructure requirements of the Core Strategy to ensure that those levels of the affordable housing delivery are maintained. (This will only apply to those elements of infrastructure requirements secured under Section 106, not the Community Infrastructure Levy).

7.22 The Council will expect developers and landowners to consider the overall cost of development prior to negotiating the sale or purchase of land or the acquisition or sale of an option. Appendix B explains the information the Council will require showing the purchase price.

## **8.0 Other Methods of Delivery of Affordable Housing**

8.1 Affordable housing is provided in the Borough through a range of approaches.

8.2 In addition to the planning process, as guided by this document, the Council's other affordable housing delivery mechanisms include:

- Progressing the Council's own land holdings for the delivery of affordable housing with developers through Joint Ventures and RBWM Property Company
- Working with private developers and housing associations to build homes

- Working with owners of empty homes to bring them back into use through utilising best practice approaches and powers
- Working proactively to prevent homelessness and with private landlords to secure lets for their properties for people in housing need through its Housing Options team
- Potentially working with other organisations that are Registered Providers to deliver affordable homes, through property acquisition or new development.

## 9.0 Management and monitoring

9.1 The Council will monitor the operation of this guidance through the Annual Monitoring Report (AMR), which the Council publishes each year.

9.2 The Council will monitor the:

- number of net additional affordable dwellings permitted and completed, by location, size, type and tenure of net additional affordable dwellings provided
- level of commuted payments collected by the Council
- amount of commuted sums collected towards affordable housing provision
- and the percent of schemes providing affordable units on-site, off-site or via a financial payment in lieu.

9.3 The Council will keep under review the SHMA to ensure that provision meets local needs. Should local evidence of need and demand through the SHMA change, the Council will consider the review of the relevant policy and/ or this guidance document as appropriate.

## 10.0 Appendices

Appendix	Content
A	Statement of Affordable Housing Proposals
B	Financial Viability Appraisals
C	Summary of heads of terms for Section 106 agreements
D	Affordable Housing Scheme

### Appendix A: Statement of Affordable Housing Proposals

Applications requiring affordable housing provision on site or those providing financial contributions for provision in an alternative off-site location should be accompanied by a Statement of Affordable Housing Proposals (SAHP) outlining the proposed methods of meeting the affordable housing requirements outlined in this document.

The Applicant is advised to seek [pre-application advice](#) with the Council on their proposals for the affordable housing.

The statement should cover the following issues. If any information is unknown at the time of the application the reason for this should be stated below in the relevant section.

Statement of Affordable Housing Proposals	
Application site	
Application Description	
Has the Applicant read the Affordable Housing Delivery Supplementary Planning Document?	Yes / No
Has the Applicant had discussion concerning the affordable housing provision with the Council, if so who?	Yes/No Officer:
Calculated number of net additional units	
Proposed Affordable Housing Registered Provider	
Number of affordable housing units to be provided	
Type and tenure of proposed affordable housing	
Any other information re the affordable housing requirements or proposals	

## Appendix B: Financial Viability Appraisals

Background information on financial viability and Financial Viability Appraisals is given in the document. The following requirements should be read in conjunction with that section. The Financial Viability Assessment should contain as a minimum the following information and data:

- a) the methodology used for the appraisal and details of any appraisal software or toolkits used
- b) land values, both current and at the time of purchase (if different)
- c) Residual Land Values (RLV) and Gross Development Value (GDV)
- d) price paid for the land; and costs taken into account when arriving at the price paid for the land (if the land is not owned by the Applicant – details of any option agreements or agreements to purchase)
- e) gross and net area of development
- f) number, size and type of units
- g) build costs (per square metre)(and comparison with appropriate published RICS data)
- h) abnormal or exceptional costs not reflected in the land value/price (and reasons why)

- i) other costs (design, legal, consultants, planning etc.)
- j) cost of any other planning obligations including infrastructure requirements and financial contributions
- k) build programme and phasing
- l) interest rates, cap rates, loan costs, cash flows
- m) developers profit and an explanation of its make up, and any company or financiers requirements
- n) anticipated phasing
- o) marketing and legal costs (and as a % of Gross Development Value (GDV))
- p) anticipated sales price for each unit type, and current assumed value of each unit type
- q) anticipated phasing of sales
- r) ground rents and services charges payable
- s) proposals for on-site affordable housing if required in meeting the requirements of the SPD
- t) anticipated price to be paid by the affordable housing provider, and the assumption on which this is based.
- u) substitution values and revenues for less or no affordable housing on-site
- v) depending on individual site circumstances and the size of the proposed development, further information may be required, this may include:
  - developers Market Analysis Report
  - copy of cost plan
  - details of company overheads
  - copy of financing offer/letter
  - Board Report on scheme
  - letter from Auditors re: land values and write offs
  - sensitivity analysis showing different assumption options (e.g. low, medium and high)

For mixed use schemes similar information and data will be required on the non residential uses. All information and data should be evidenced from an independent expert or source, and be benchmarked.

The following should also be noted:

- each cost, value, revenue, assumption etc. must be evidenced from an independent expert or source
- any assumptions must be explained in detail – in line with the [Viability in Planning](#) guidance document (RICS, 2012), please provide a written summary in the application correspondence describing the viability figures provided, giving evidence for all assumptions made, and identifying all information sources.
- the Council will assume that:
  - the cost of meeting the affordable housing requirements in Policy CS12 should be reflected in the price paid, or price to be paid, for the land, and should be based on:
  - no public subsidy or grant
  - payment by the provider of the affordable housing should meet current HCA Guidance, i.e. less than market value.

- abnormal site costs should be reflected in the price paid, or to be paid, for the land.

## Appendix C: Summary of heads of terms for Section 106 agreements

The Council does use a standard Section 106 agreement. On more significant sites the agreement is tailored to the individual circumstances of the site. However sections 5 and 6 provide the background to the requirements for the provision of affordable housing; the following is intended as an indication of the matters likely to be included in any agreement. This is not a definitive list – other matters may be required depending on the site circumstances.

Summary of common matters to be included in Section 106 agreements:

- a) details of the planning application
- b) details all parties with an interest in the land (including mortgagees)
- c) a site location plan
- d) definition of affordable housing
- e) number of affordable dwellings, the mix, size, type and tenure
- f) design, standards and location on-site etc.
- g) affordability criteria
- h) details of the affordable housing provider
- i) phasing of delivery of the affordable housing
- j) obligation to complete an Affordable Housing Scheme
- k) obligation to enter into a Nomination Agreement
- l) triggers for the commencement and completion of the affordable housing
- m) limitation on occupation of the units, and maintaining them for affordable housing
- n) recycling of receipts from disposal of affordable housing
- o) mortgagee in possession clause
- p) cascade arrangements (if any)
- q) funding issues (if any)
- r) registration of the Agreement as a Local Land Charge
- s) payment of the Council's costs in drawing up the agreement

## Appendix D: Affordable Housing Scheme

The Affordable Housing Scheme should generally meet the requirements outlined below.

It is anticipated that the Developer and Registered Provider and/or Affordable Housing Provider will submit the Affordable Housing Scheme jointly. It is agreed by the Parties that where any of the information required below is not available at the time of submitting the Affordable Housing Scheme such information shall be submitted or resubmitted (where an amendment is required) for approval prior to commencement of construction of any Affordable Housing Unit within the relevant Sub Phase.

### 1 All Affordable Housing Units

- 1.1 The total number of affordable units in the Sub Phase as a percentage of the total units in the Sub Phase.
- 1.2 The anticipated tenure, size and type of each of the units.
- 1.3 A site layout showing the location of the units.
- 1.4 Plans showing the indicative internal layout of each type of unit.

- 1.5 Confirmation that the units meet all the requirements set out in this Deed or any approved amendments to such requirements.
- 1.6 Details of the proposed Registered Provider or Alternative Affordable Housing Provider that will deliver the units.
- 1.7 Confirmation that all of the units will be rented or sold in accordance with the provisions of the Nominations Protocol.

## 2 **Rental Units**

- 2.1 Details of the proposed rent and any service charge for each type of unit and confirmation that these met the affordability requirements set out in this appendix.
- 2.2 Details of the management arrangements.

## 3 **Shared Ownership**

- 3.1 Details of the anticipated: price; percentage equity to be sold; mortgage payments; rent; service and management charge for each type of unit; and confirmation that these meet the affordability requirements set out in this Deed.
- 3.2 Details of the shared ownership lease and arrangements for resales under which the units will be sold.
- 3.3 Indicative marketing arrangements
4. Similar details will be required for any tenure not specifically mentioned above.