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## 1 Introduction

1.1 The Dover District Local Plan was adopted in 2002. It sets out 3 broad aims, of which one is:

*'To help achieve greater equality of access and opportunity for all.'*

1.2 One of the objectives to meeting this aim is:

*'Development will be accessible to everyone.'*

1.3 This objective has at its heart recognition that there is a need for low cost housing in urban as well as rural parts of the District.

1.4 The Council is also a strategic housing authority and in its Housing Strategy of 2005, it sets out six strategic priorities, the first of which is:

*'Meeting the shortfall in affordable housing, and providing the quantity and quality of accessible housing that local people require is a major priority for the Council.'*

1.5 Dover District Council has published this Supplementary Planning Document (SPD) in order to alert developers and landowners as early as possible to the scale of local needs for affordable housing and the fact that planning obligations will be sought and conditions imposed on relevant planning permissions in order to achieve affordable housing as part of residential developments. The Council is keen that negotiations relating to affordable housing should be started early in the development process so that the cost of providing affordable housing can be readily anticipated within land purchase price and overall development costs. In addition, the Council recognises that the provision of affordable housing is best achieved through partnership involving landowners, developers, Registered Social Landlords and a variety of local authority departments. Importantly the Council believes that the operation of the SPD will save time and help speed up the delivery of affordable housing.

1.6 The Council will have regard to this SPD when making planning decisions. In other words, it may be material to decisions on individual planning applications. Affordable housing has been established as a material planning consideration in a number of court cases including *Mitchell v Secretary of State for the Environment and Another*, Court of Appeal (1994); *ECC Construction Limited v Secretary of State for the Environment and Carrick District Council*, Queen's Bench Division (1994); *R v Tower of Hamlets London Borough Council*, ex parte Barratt Homes Ltd, Queens Bench Division (2000); *Harry Rowlinson and Lynda Rowlinson and Trustees of the Linson Construction Pension Fund v Warrington Borough Council and the Department of Transport, Local Government and the Regions*, Court of Appeal (2002) and *Oxford City Council v The First Secretary of State and J A Pye (Oxford) Ltd*.

1.7 The Oxford case above confirmed the following important principles:

- SPD must be consistent with national and regional planning guidance and the adopted development plan.
- SPD must be cross-referenced to the relevant plan policy which it supplements.
- SPD must be issued separately from the plan.
- SPD must be made publicly available.
- Consultation should be undertaken with the general public, businesses and other interested parties with their views being taken into account before the SPD is finalised.
- A statement of the consultation undertaken, the representations received and the local authority's response to those representations must be made available.
- SPD must be subject to a Council resolution to adopt it as supplementary guidance.
- The status of the SPD should be made clear.
- SPD must be regularly reviewed and updated in response to changing circumstances.



**1.8** The Government expects the planning system to assist in tackling the recognised shortage of affordable housing by securing the provision of such accommodation as a proportion of new housing schemes. The private housing development sector is expected to deliver such provision on site, unless exceptional circumstances exist. This will help to promote a greater mix of housing opportunity for those of different economic status and lifestyle, avoiding large concentrations of the same type of housing.

**1.9** This policy document needs to be considered in the context of the Council's statutory duties as a housing and planning authority, the availability of financial and other resources and emerging regional and national policy agendas. It will be subject to periodic review in the light of changing needs and the local housing market. It should be noted that the appendices, which contain information which will be updated regularly, do not form part of the SPD.

**1.10** The provision of affordable housing will result in a cost to developers that can be offset if the affordable housing requirement is taken into account in negotiating land options/purchase. Valuers and landowners should be aware that affordable housing provision will have implications for the price of land.

### **Sustainability Appraisal**

**1.11** This Supplementary Planning Document has been subject to a Sustainability Appraisal (SA). An addendum to the Dover Local Development Framework Scoping Report was the subject of a consultation exercise with the statutory consultees (the Environmental Agency, English Heritage, Natural England and the Countryside Agency) for the statutory 5 week period.

**1.12** The SA Report (which is a separate document) was prepared in conjunction with the development of the SPD and assesses the documents compatibility with the District's objectives for sustainable development and how it might be improved. The SA Report was published for public consultation alongside the draft SPD and has been updated to reflect changes in the SPD resulting from the public consultation exercise.



## 2 Status of this Guidance

**2.1** This guidance note on affordable housing was adopted on the 3rd September 2007 as a Supplementary Planning Document (SPD) to Policy HS9 of the Dover District Local Plan and forms part of the planning framework for the area. It was further recommended that the SPD should apply to all planning applications received or validated after the 2 January 2008. The Council is in the progress of preparing a Local Development Framework (LDF) and this SPD will be used as a starting point for negotiations on residential development schemes that come forward in the LDF.

**2.2** Chapter 10 of the Local Plan includes policies on housing. Paragraph 10.07 applies the general aims and objectives set out in Chapter 2 (and referred to above) insofar as they are relevant to housing. Six themes are identified as forming the Plan's housing strategy.

**2.3** These are:

- a. control the upper and lower levels of available housing land;
- b. direct provision to the urban areas;
- c. target provision better towards the needs of the local population;
- d. provide a choice of housing opportunities in terms of size, type and location of dwelling within the constraints set by the Plan's objectives;
- e. manage the existing stock in a way which reflects local people's needs; and
- f. to accommodate future employment generated housing in a sustainable manner.

**2.4** There are three main policies in the adopted Local Plan, which relate to affordable housing. One of the policies in the adopted Local Plan, HS10, relates to affordable housing in the rural area beyond the village confines. This SPD does not cover rural exception sites as separate Supplementary Planning Guidance covers this – see [www.dover.gov.uk/forwardplanning/supplementary.asp](http://www.dover.gov.uk/forwardplanning/supplementary.asp).

**2.5** The remaining two Policies in the Local Plan that relate to affordable housing are as follows:

### Policy HS9

The Council will seek agreement with developers of residential schemes of 25<sup>(i)</sup> or more dwellings or on residential sites of one hectare or more, irrespective of the number of dwellings, to include an element of permanent affordable housing. The size of the element will be determined through negotiation taking into account market and site conditions. The Council will also seek agreement to restrict initial and subsequent occupation to people already resident in the District who cannot afford open market housing.

### Policy HS11

In order to ensure that the needs of small households are catered for the Council will:

- Seek to include an element of one and/or two bedroom housing in proposals for residential development; and
- Permit proposals for the sub-division of residential properties into a number of dwellings provided the residential property has a floor area greater than 110 square metres and 5 or more bedrooms, and the character of the area and amenities of adjacent residents would not be harmed.

**2.6** Affordable Housing is defined in Annex B of PPS3 as:

i From 1 April 2007, the District Council has started to apply the 15 dwellings threshold in paragraph 29 of PPS3.



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

Meet 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.

Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision'.



## 3 Guidance

### National Guidance

**3.1** This SPD has been prepared to be in accordance with current national planning guidance contained in Planning Policy Statement 3: Housing (PPS3). When introducing the new PPS3, the Secretary of State stated that:

“The purpose of the changes to planning and housing policy is to:

- support further increased housing needed across the country,
- bring additional brownfield land back into use,
- increase the design and environmental standards of new homes and neighbourhoods in order to move towards zero carbon development,
- deliver more affordable homes in rural and urban areas,
- support more family housing, including more play spaces, parks and gardens for children,
- give local authorities more flexibility about how and where to deliver the homes that are needed.

We need to increase the quantity and improve the quality of new homes at the same time.

Government research found that if we do not build more homes, then the proportion of thirty year old couples able to afford their own home will fall from over 50 per cent today to nearer 30 per cent in twenty years' time.”

**3.2** The Government's key housing policy goal is to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live. To achieve this, the Government is seeking:

- To achieve a wide choice of high quality homes, both affordable and market housing, to address the requirements of the community.
- To widen opportunities for home ownership and ensure high quality housing for those who cannot afford market housing, in particular those who are vulnerable or in need.
- To improve affordability across the housing market, including by increasing the supply of housing.
- To create sustainable, inclusive, mixed communities in all areas, both urban and rural.

**3.3** Further to this, PPS3 sets specific outcomes that the planning system should deliver, these are:

- High quality housing that is well-designed and built to a high standard.
- A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.
- A sufficient quantity of housing taking into account need and demand and seeking to improve choice.
- Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.
- A flexible, responsive supply of land – managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate.

**3.4** Paragraph 24 of PPS3 states that:



*“In planning at site level, Local Planning Authorities should ensure that the proposed mix of housing on large strategic sites reflects the proportions of households that require market or affordable housing and achieves a mix of households as well as a mix of tenure and price. For smaller sites, the mix of housing should contribute to the creation of mixed communities having regard to the proportions of households that require market or affordable housing and the existing mix of housing in the locality.”*

**3.5** Local Planning Authorities should set an overall target for the amount of affordable housing to be provided; set separate targets for social-rented and intermediate affordable housing where appropriate; specify the size and type of affordable housing that, in their judgement, is likely to be needed in particular locations and, where appropriate, on specific sites; set out the range of circumstances in which affordable housing will be required; and, set out the approach to seeking development contributions to facilitate the provision of affordable housing.

**3.6** PPS3 replaces the cancelled Planning Policy Guidance 3: Housing (2000) and its updates (2005) as well as Circular 06/98: Planning and Affordable Housing (1998).

**3.7** A document called Delivering Affordable Housing was also published in conjunction with PPS3, it further supports Local Planning Authorities and key players in delivering affordable housing. Delivering Affordable Housing outlines the affordable housing challenge that needs to be met, and provides information on how existing delivery mechanisms operate to help in delivery. In particular it provides detailed explanations to the new definitions of affordable housing in PPS3, and it sets out the Housing Corporation's preference for affordable housing on S.106 sites to be funded without grant. This SPD conforms to the advice in both PPS3 and Delivering Affordable Housing.

### **Regional Planning Guidance**

**3.8** The currently approved Regional Planning Guidance is RPG9 published in 2001. It confirms the regional importance of providing sufficient affordable housing to meet the housing needs of the community and to plan for balanced communities. The RPG recommends that local authorities should make use of Supplementary Planning Guidance to guide developers and provisionally indicates that 18,000 to 19,000 affordable homes should be provided each year across the region.

**3.9** The Draft South East Plan for Submission, March 2006, increases the emphasis placed on the need to deliver more affordable housing in the region set out in the 2001 version. It sets a regional target of 25% of all new housing being social rented, with an additional 10% being provided as other forms of affordable housing.

### **Kent and Medway Structure Plan**

**3.10** The Kent and Medway Structure Plan has now been adopted. Policy HP7 requires Districts to identify the proportion of the strategic housing provision which should be affordable on the basis of local housing needs assessments. It also requires Districts to identify the respective contributions for shared equity, Key Worker and other forms of intermediate housing, and to indicate appropriate site size thresholds and targets for individual sites.



## 4 Housing Need

**4.1** A Housing Needs Assessment was carried out in 2001 (HNA). A Housing Needs Survey (HNS) Update was completed in 2003 which provides the most up to date comprehensive data relating to housing need across the District. The 2003 study reveals that there is an overall annual shortfall of 322 units. The HNS provides data on income and affordability thresholds for access to various types of accommodation. Significantly, the income required to access market entry-level properties in the District has increased between March 2000 and March 2003 by 39.3% (terraced homes) and 47.8% (flats).

**4.2** Other important secondary data underlines the current problems and trends in the District:

- The number of homeless households accepted as being in priority need has risen from 97 in 2000 to 156 in 2004, a 57% increase;
- The public sector stock (LA and RSL combined) has fallen from 7,513 in 2000 to 6,873 in 2004, a decrease of 8.5%;
- Public housing in Dover now makes up only 14.3% of the total housing stock compared to 15.9% in 2000.

**4.3** It should be noted that the District Council agreed in June 2004 that the 2003 Housing Needs Survey Update should be a material consideration for taking planning decisions which relate to housing developments, in particular the securing of affordable housing and an appropriate mix of dwellings. Thus, the District, in accordance with the findings of the HNA, has been seeking to negotiate 30% affordable housing on suitable private sector housing sites, i.e. those subject to Policy HS9.

**4.4** It is intended that a new Housing Market Assessment will be prepared in 2007/2008 and information contained in this SPD and its appendices will be updated if required.





## 5 Negotiating Affordable Housing

### General Approach

5.1 When implementing the local plan policies the District's preferred approach is as follows:

- To secure 30% of total housing as affordable on qualifying sites (i.e. sites of over 15 units in accordance with PPS3), unless material considerations indicate otherwise;
- To ensure the type of affordable housing provided will meet an identified local need;
- To ensure the end cost of the housing remains genuinely affordable in the longer term;
- To encourage the involvement of a RSL in the future management of the affordable housing.

5.2 Within the above there are a host of objectives which the District will pursue to achieve its preferred aims. These can be described under the following headings:

- Definition of affordable housing in Dover.
- The tenure type of the affordable housing required.
- Funding and implementation of affordable housing.
- The importance of on-site provision.
- Long term management and occupancy controls.
- Habitable rooms or units.
- Size of the affordable housing units.
- Site suitability.
- Pre-application discussions.
- Integration of the affordable housing.
- Service and management charges.
- Standards.

### Definition of Affordable Housing in Dover

5.3 The Local Plan, at paragraph 10.54, defines affordable housing as, '*housing provided and managed in a way which serves to reduce the purchase price or rental levels of dwellings below normal market rates to enable initial and subsequent occupation by those in housing need*'. Normal market rates, for the purpose of this document, are taken to be the entry-level affordability thresholds identified in the Housing Needs Survey Update of 2003. Essentially, for housing to be affordable, the costs to the occupier must be below these affordability thresholds. The tables in Appendix 1 'Local Data' set out these thresholds which are taken from Table 2.5 and Table 2.9 of the HNS Update of 2003. This information will be periodically updated. Whilst these levels are over 2 years old, they are considered to be broadly reflective of the market today.

5.4 Government guidance and the Local Plan indicate the benefits of involving a Registered Social Landlord (RSL) in the future management of affordable housing. RSLs are the largest provider of affordable housing in the country and locally in Dover District. RSLs are regulated by the Housing Corporation and are required to set rental levels within set guidelines (target rents). Rental levels for recent RSL affordable housing in the District are considerably below those of rented dwellings in the market (compare tables 2 and 3 of Appendix 1 'Local Data'). Again this information will be periodically updated.

5.5 RSL rented properties, often called social rented units, will therefore provide affordable housing to meet the requirements of those most in need (i.e. 'Priority Need'). But there will be others, not in 'Priority Need', and who are therefore not eligible for social rented units, who also cannot afford entry-level housing in the District. This category of household is often referred to as being in need of Intermediate Housing. Specifically identified as a housing type in the Government's recently adopted, PPS3 Housing, the Local Plan alludes to meeting the needs of this sector by reference to 'low-cost



market housing.' In the context of Dover, the term 'low-cost market housing' equates to Intermediate Housing and is housing which is provided at a cost to the end occupier which falls between social rented housing and entry-level market housing.

**5.6** RSLs provide intermediate housing in a number of tenure forms including shared ownership, shared equity and sub-market rented. New Build HomeBuy is one of three intermediate affordable home ownership products launched by the Government in 2006. It enables people to buy a share of a newly built property paying a rent on the remainder. Normally shared ownership dwellings will only be considered to be affordable where the initial equity share to be sold is no greater than 40% and the rent charged on the retained element equates to not more than 2.75% (i.e. the rent level set in the New Build HomeBuy product). Shared ownership, shared equity and sub-market rented are all categories which also fall within the definition of affordable housing in the HNS update 2003 (para 1.5.3). The worked example below explains how the monthly rent is worked out. In addition to this element of housing cost would be a mortgage payment to cover the sold equity.

Open Market Value (OMV) of unit = £100,000

Sold equity @ 40% = £40,000

Retained equity = £60,000

Divided by 12 = £5,000

Times 2.75% = £137.50 = rent per month

Therefore the cost to occupier would be mortgage on £40,000 + £137.50 pm

### The Tenure Type of the Affordable Housing Required

**5.7** The HNS update of 2003 suggests that within the proportion of affordable housing on any individual site, a mix of subsidised units for sale and rent will be required. Given the increased emphasis on enabling mixed and balanced communities to be fostered, the Council's preferred approach is generally to seek a ratio of social rented to intermediate housing of 70:30. This is a ratio which corresponds broadly with the proportions emerging in the South East Plan. However, in wards where there are relatively high levels of social rented housing, the Council may seek a higher proportion (up to a maximum of 50%) of the affordable housing as intermediate. The threshold for determining this consideration will be where the proportion of social rented housing in any ward, as per the 2001 census, is higher than the district average (see table 4 at Appendix 1 'Local Data').

**5.8** In addition to seeking a range of tenure types, the Council is also aware of the need to provide housing to meet those households requiring '*special needs*' or '*supported housing*.'

**5.9** It should be noted that proposals for such groups will be encouraged, but for developments to be regarded as affordable they must also meet the general affordability criteria set out in this SPD. Equally, where '*market*' supported housing is proposed it will be expected to meet the requirements of this SPD. Thus, when the Council receives planning applications for 'market' sheltered housing schemes above PPS3 threshold of 15 units the Council's preferred approach will be as follows: -

- The housing department will confirm whether or not there is a need for affordable sheltered accommodation. If there is, an appropriate amount of this accommodation will be sought on-site.
- If this is not possible, due to site constraints, the Council will accept a cash payment in-lieu of the element.



## Funding and Implementation of Affordable Housing

**5.10** If the aims and objectives of the development plan and this SPD are to be met, it is imperative that adequate and appropriate mechanisms are put in place to ensure the *delivery* of affordable housing. In this respect it is essential that proper regard be had to the availability of resources required for implementation: principally land and money.

### Land

**5.11** In addition to sites which are allocated in the local plan for housing upon which it is appropriate to negotiate an element of affordable housing (i.e. sites above the 15 unit threshold), suitable 'windfall sites' will also be subject to the application of Policy HS9 and paragraph 29 of PPS3.

### Funding

**5.12** In order to deliver genuinely affordable housing, subsidy is required. This can be provided in the following ways:

1. Reduced land values
2. Developer cross-subsidy (from profits from the sale of market housing)
3. Public subsidy (grant).

**5.13** Historically, public subsidy has been provided in the form of Social Housing Grant. In essence, this represents the amount of subsidy required to ensure the housing is genuinely "affordable", with the balance of costs being met by mortgages or loans serviced from rental and sales income.

**5.14** However, as explained below, when affordable housing is developed on "suitable" housing sites, there is now less likelihood of Social Housing Grant being made available. The Housing Corporation has adopted this position in recognition of the fact that indiscriminate use of public subsidy merely serves to inflate the cost of land (see paragraphs 31-35 of the National Affordable Housing Programme 2006-2008 Prospectus). Deployment of grant on such sites is not only inefficient and a waste of public money, but it also reduces the total amount of affordable housing that can be produced.

**5.15** Instead, there is an increasing expectation that the necessary subsidy should be provided in the sequence set out in paragraph 5.12 above.

**5.16** However, in many parts of the District, where property prices and land values are not relatively high, some public subsidy is likely to be required to enable the affordable housing to be genuinely affordable to the occupiers. The approach will be to ensure that any grant represents value for money and is genuinely required to enable the end users to afford the units. In some parts of the District, notably Walmer and Sandwich, higher property prices should ensure that only the minimum amount of public subsidy needs to be injected.

**5.17** In any case, it is unlikely there will ever be sufficient Social Housing Grant available to subsidise the cost of all affordable housing. It is therefore important to concentrate the deployment of Social Housing Grant on those schemes still requiring public subsidy to make them viable, or where such subsidy would help deliver added value.

**5.18** The preferred principle below therefore establishes a mechanism to assist in ensuring that landowners understand that the provision of affordable housing will have the impact of reducing the cost of land. This will be of particular benefit to house-builders, as it should enable them to acquire land more cheaply whilst not harming the overall financial viability of development schemes.



### Preferred Principle 1

***The Council will seek to negotiate the provision of affordable housing without public subsidy, but where public subsidy is required the developer will need to satisfy the Council that its inclusion represents value for money. As part of this process the developer will be required to demonstrate how internal cross-subsidy from the sale of market housing on the same site will subsidise the affordable element. In order to assure the delivery of the required affordable housing, developers will be expected to demonstrate that the cost of land has been suitably discounted to make such provision viable.***

**5.19** When negotiating option agreements to acquire land for residential development, it is essential that prospective house-builders ensure that the terms of such agreements ensure that the cost of providing any cross-subsidy (and indeed any other planning obligations) are fully deductible from the purchase price of any land. A suitable mechanism for this purpose is included at Appendix 2 'Methodology for Calculation of Internal Cross-Subsidy and Worked Example'.

**5.20** It should be noted that under the 1996 Housing Act, rented RSL housing is subject to the Right-to-Acquire (similar to preserved tenant's Right-to-Buy) in cases where public subsidy is utilised. It follows that the avoidance of public subsidy assures that the affordable home can be retained as such in perpetuity. This, in turn, improves the ability of the District Council to respond to housing needs when nominating applicants from the Housing waiting list to casual vacancies.

**5.21** It is therefore very important, and in the best interests of prospective developers, to approach the Council's Housing Section and its partner housing associations at the earliest opportunity to discuss the likely viability of development on any given site. Such approaches should be made at pre-application stage, and will be treated in strictest confidence. This approach applies even where a house-builder is able to directly access Social Housing Grant funding.

### Financial Appraisal

**5.22** It is considered that a grant free affordable housing requirement is not beyond expectation, especially in relation to development on greenfield sites.

**5.23** The policy of delivering affordable housing without public subsidy has also been supported by the First Secretary of State in a landmark appeal decision dated 27 July 2004 in Hinckley following a call-in inquiry (Hinckley and Bosworth Borough Council).

**5.24** The Council anticipates that developers/landowners will want certainty in undertaking a development appraisal in order to understand the financial costs to be borne. The following affordable housing requirements need to be assumed for development which is subject to a section 106 agreement, where viability is assured.

**5.25** The planning obligation will be to deliver affordable housing in a mix of property types and tenures which shall be agreed with the Council.

**5.26** This means that developers undertaking a development appraisal must determine a range of costs which will include – land; a range of infrastructure costs for the entire development; cost to service building plots; the actual construction costs to comply with Housing Corporation Scheme Development Standards, including the requirement to achieve Eco-Homes 'Very Good' rating (see paragraph 5.65); and also associated 'on-costs' of development (project management, architectural design, surveyors etc). All of these costs will be borne by the developer, net of the following:

- Any housing association finance that can be raised through a mortgage on the property, to be repaid from rental income.
- Any subsidy element which has been identified, which could be a range of or aggregate of all subsidy elements.



**5.27** It is the Council's preference that a developer should involve one of the Council's partner housing associations at an early stage of the process in order to undertake a comprehensive development appraisal, with a full appreciation of all development costs, potential revenues and subsidy elements (see Appendix 4 'RSL Preferred Partners and the Local Authority Contacts, September 2007').

**5.28** As a general principle, the Council considers that affordable housing plots (i.e. land) will have no more than a residual value calculated in accordance with the methodology recommended in Appendix 2 'Methodology for Calculation of Internal Cross-Subsidy and Worked Example'. Such residual values are likely to be significantly lower than the notional unfettered open market value were the plots to be released for residential development without restriction. All interested parties should be mindful of this point when conducting a development appraisal.

**5.29** Generally, the Council will support bids to the Housing Corporation for Social Housing Grant funding where the proposal represents value for money and is genuinely required to enable the provision of the required level of affordable housing.

**5.30** It cannot be emphasised enough that developer subsidy to affordable housing should be calculated on the basis that no Social Housing Grant or District Council resources will be available, and therefore the price paid for the land should take this into account.

**5.31** In considering the suitability of a site to provide affordable housing the Council will have regard to the particular costs associated with development and whether its provision would prejudice other planning objectives that need to be given priority in development of the site, for instance bringing back into use a previously developed site.

**5.32** A developer should, however, take affordable provision and other known requirements and constraints into account when negotiating the purchase of land. The Council will expect abnormal site costs associated with the development to be demonstrated by an independent viability appraisal encompassing both costs and values. The cost of undertaking an independent viability appraisal will need to be borne by the developer. Such abnormal costs may occasionally justify a reduction in the level of affordable housing provision. The Council will expect 'open book' negotiations. In recognition of the sensitivity of the information supplied, it will be kept confidential. Standard development costs that will not normally be considered as abnormal include demolition, contamination, landscaping, surveys such as archaeological, ecological and drainage, flood prevention measures and noise abatement measures, i.e. earth bunds etc. Abnormal development costs will be those that could not have been reasonably anticipated in advance, and it is recognised that in some limited cases this will include higher than anticipated standard costs, e.g. where remedial costs to alleviate contamination turn out to be higher than anticipated. However, in such cases the onus will remain on the developer to justify the position satisfactorily to the Council.

**5.33** The Council may need to seek specialist independent advice in assessing the economic viability of development, and will seek to recover the cost of so doing under the terms of a Section 106 Agreement.

**5.34** Prospective developers are encouraged to use the methodology for the calculation of internal cross-subsidy which is included at Appendix 2 'Methodology for Calculation of Internal Cross-Subsidy and Worked Example'.

**5.35** The Council is aware that some sites may have been purchased prior to the introduction of this SPD and therefore due consideration will be given to the relevance of fully applying this SPD on sites purchased before the date of publication of the draft version of this document for public consultation. However, in all cases, the onus will remain on the developer to show that to provide 30% affordable housing without public subsidy is not viable.



## The Importance of on-site Provision

**5.36** PPS3 indicates that where a local planning authority considers that a site is suitable to provide an element of affordable housing the presumption is that it will be provided on-site (para 29). PPS3 also allows for off-site and/or financial contribution solutions in-lieu of on-site provision in circumstances where it can be 'robustly justified'.

**5.37** The normal expectation is, therefore, for affordable housing to be provided on-site. However, the District recognises that in certain, but exceptional circumstances, off-site or cash in-lieu solutions may be appropriate.

### Preferred Principle 2

*The order of preference of form of affordable housing provision is as follows:*

- i. On site*
- ii. Where deemed appropriate by the Council, part on site provision and part off site/commuted payment*
- iii. Where deemed appropriate by the Council, off site in the form of:*
  - *Provision by applicant, developer or RSL*
  - *Commuted payment*
  - *Transfer of land*

*There is a presumption that a site suitable for housing development will also be suitable to provide affordable housing on site. In accordance with Policy HS9 of the local plan the presumption will be, therefore, that provision of affordable housing should be made on the development site itself. It would only be in exceptional circumstances that an alternative to on site provision would be appropriate as deemed appropriate by the Council.*

**5.38** There may be circumstances where the Council may wish for part of the affordable housing element to be provided on-site and for the remainder to be provided as cash in-lieu. Such circumstances may arise where it is desirable for existing units to be brought back into use or improved to provide decent affordable homes. For example parts of the urban area of Dover contain high levels of housing need, have relatively poor housing conditions and offer little scope for new affordable housing as most development sites are below the threshold whereby an element of affordable housing might be negotiated. To address issues in such areas the Council may seek, on qualifying sites within and without such areas, part on-site provision (20%) and cash in-lieu equating to the equivalent value of the remainder (10%) to be directed to urban initiatives such as bringing empty homes back into use. Exceptionally, where a developer believes that there are good reasons to deliver all affordable housing off-site this will need to be demonstrated to the Council at the pre-application stage. Details of the proposal i.e. an alternative suitable site or a financial payment in-lieu of on site provision will need to be submitted to the Council, and must demonstrate that there is a realistic prospect of timely delivery.



### Preferred Principle 3

***Alternative arrangements - in lieu of on-site provision – such as a financial contribution, and/or land and/or buildings on other sites – will only be favourably considered where ALL of the following tests are met:***

1. ***The applicant and the District Council both agree there is an exceptional and positive justification for the alternative of off-site provision.***
2. ***Agreement has been reached on the quantity and type of affordable housing, which would otherwise have been provided on site.***
3. ***The alternative form of provision would be equivalent in all respects to the affordable housing, were this to have been provided on-site.***
4. ***The developer has demonstrated to the Council's reasonable satisfaction that there is a firm prospect of securing the alternative form of provision:***
  - a. ***on a site or sites within the same town or village, or on a site or sites elsewhere, where the Council deems affordable housing to be appropriate, and;***
  - b. ***within the same timescales as the development giving rise to the requirement for affordable housing, and in any event within a five year period of the Agreement.***

***In the case of a financial contribution, a payment is made at the same time as on-site affordable housing would have been provided.***

**5.39** The Council's methodology for calculating an appropriate financial contribution together with an explanation of how it operates is contained in Appendix 3 'Methodology for Calculating Financial Contributions in Lieu of On-Site Provision of Affordable Housing'.

**5.40** Any planning obligation to provide a financial contribution will state that monies received must be used for affordable housing provision, including initiatives such as bringing empty homes back into use, within a period of five years of receipt. If not so applied within this period, any unexpended monies shall be repayable on demand. A clause will also be included providing details in respect of the actual payments requested being index linked and in the event of any delay in the payment, interest shall become payable. This is to ensure the value of any contribution is not eroded.

### Long Term Management and Occupancy Controls

**5.41** The Council wishes to see the affordable housing come forward as quickly as possible. The Council will therefore seek to secure, usually through a S106 Agreement, the completion and handover of the affordable housing dwellings ready for occupation linked to the occupation of any of the dwellings to be sold on the open market. As a guide the approach normally taken will be for not more than 30% of the open market units to be occupied until a similar proportion of the affordable units have been completed and are ready for occupation, and further phases will be similarly linked. Flexibility will be introduced to this aspect of delivery based on individual site considerations, but it will be the intention that not all market units may be occupied until all affordable units have been provided.

**5.42** The Council will require an appropriate mechanism to be in place to ensure that the affordable housing provided remains both affordable and available to those in local housing need in the longer term. Policy HS9 states that the affordable housing should be '*permanent*' and paragraph 10.54 of the local plan states that:

*'This (affordable housing) will be achieved through the involvement of a registered social landlord and/or the imposition of conditions or legal agreements restricting the occupancy of dwellings to those in need.'*



**5.43** A RSL having a continuing interest in a property should ensure control over subsequent changes of ownership and occupation. This provides two safeguards. Firstly, RSLs are obliged to have publicly available policies and procedures for allocating tenancies. This obligation is part of the Housing Corporation's 'Performance Standards' for RSLs. These should be open, fair and based on housing need. Secondly, should disposal of RSL assets become necessary, it will take place under Housing Corporation arrangements.

**5.44** The appointment of a RSL to manage affordable housing on any given site should be an effective way of controlling occupancy without the need for additional occupancy controls. Housing legislation allows full 'staircasing', that is to say many occupiers of shared ownership dwellings will have the right to acquire 100% of the equity of their homes. For clarity, shared ownership dwellings which fall into this category will still be regarded as affordable so long as, at the inception of their provision, the equity share which may be purchased does not exceed 40%. It is recommended that the skills and experience of RSLs be employed at an early stage of the design process to ensure a future effective management operation can be properly considered. Appendix 4 'RSL Preferred Partners and the Local Authority Contacts, September 2007' provides a list of RSLs which develop and manage properties in Dover District.

**5.45** Appendix 5 'Model Heads of Terms for Section 106 Agreements/Conditions' sets out the Heads of Terms for model legal agreements that the Council will use to secure the delivery of affordable housing where a RSL is not the applicant. It is recognised that the provision of affordable housing involving a RSL is not the only means of provision and where it is proposed that there be no RSL involvement a legal agreement will be used to ensure affordability levels and to control occupancy both initially and subsequently.

### Habitable Rooms or Units

**5.46** Policy HS9 requires an 'element' of affordable housing to be determined through negotiation. The general approach has been to negotiate 30% of the 'homes' as affordable. However, it is recognised that in some cases, particularly where there is a demand for larger family units, it is more pertinent for the element to be negotiated as a percentage of habitable rooms. The Housing Section will be able to advise whether or not there is a localised demand for family units and this is a further reason for developers to consult the Housing Section at an early stage in the process. Under such circumstances this might mean, for example, that the element, as a percentage of the total number of units on a given site, is below 30%, but as a proportion of the total number of habitable rooms the affordable housing element will be higher and closer to 30% (see worked example below). The definition of a habitable room is given in the glossary. In some circumstances the Council will consider applying the 30% target as a proportion of the overall residential net floorspace.

### Worked example

**5.47** A scheme proposes 50 units comprising 20x1bed units, 20x2bed units and 10x 3bed units. Seeking 30% of the units as affordable in the standard way would mean that 15 should be provided as affordable. If there is a need for 3bed family units as determined by the Housing Section the Council may, for example, seek all 3bed units in the scheme to be affordable, amounting to only 20% of the units being affordable. However, based on a percentage of habitable rooms in the scheme as a whole, it would mean that 28% of the scheme would be affordable i.e. closer to the standard 30% figure. By reading down the columns below this example is explained further.

	Dwellings	Hab rooms
	20x1b	40
	20x2b	60
	10x3b	40
<b>Total</b>	50	140



<b>30% Affordable (standard approach)</b>	15	42
<b>But Council determines need for larger i.e. 3 bed family units</b>	10x3b	40
<b>% Affordable</b>	20%	28%
<b>% Market</b>	80%	72%

Table 5.1 Example

## Size of the Affordable Housing Units

**5.48** Policy HS11 of the Local Plan seeks to ensure that proposals for residential development in the District include an element of one and two bedroom units. This is a policy which responds to the trend of a general decrease in household size in the District and paragraph 10.57 states that the requirement may be additional to the element of permanent affordable housing negotiated under Policy HS9. In the affordable housing sector, distinct from the general housing market, there is often a need for larger family accommodation, and therefore on sites where an element of affordable housing is appropriate the requirements of Policy HS11 will be applied to the general market element only. For the affordable element the District will seek to negotiate a range of units including, where the site is suitable, larger family units. The basis for achieving this will be by taking account of the unit size requirements of those on the housing register, for the three main urban areas and the rural area. Table 5 of Appendix 1 'Local Data' indicates these proportions.

**5.49** The Council will seek to achieve a mix of units within the affordable element using the above rounded proportions as a guide, but it is stressed that flexibility will be employed. Nevertheless, the Council will monitor the achievement of the above proportions for each of the sub-areas and take into account any mismatches in future negotiations.

## Site Suitability

**5.50** In order to reflect the new requirements in paragraph 29 of PPS3, this SPD will apply to proposals that involve 15 or more units. In addition, when deciding whether a particular site qualifies as being above the threshold, the Council will assess not merely the proposal submitted, but the potential capacity of the site. Deliberate circumvention of the stated site size thresholds, via for example inefficient use of land, will not be accepted. As part of the normal development control considerations of a proposal, a judgement will be made as to whether or not a development makes the best use of land. PPS3 urges LPA's to make the most efficient use of land and therefore any scheme which would result in an 'under-development' will be resisted. Where it is considered that more units can be achieved than is proposed, developers will be asked to reconsider their proposals.

**5.51** When the mathematics of applying the indicative target means that the proportion of affordable housing would be a fraction of a unit, the approach will be to round up to the nearest whole unit.

**5.52** On sites falling below the stated site size threshold in PPS3 developers will nevertheless be encouraged to provide an element of affordable housing, which the Council will weigh as a positive material planning consideration helping to justify approval.

**5.53** In considering the suitability of a site to provide affordable housing the Council will also have regard to the particular costs associated with development and developers' assistance will be requested in providing financial information about the development.

**5.54** A developer should, however, take affordable housing provision and other known requirements and constraints into account when negotiating the purchase of land. The Council will consider abnormal site costs associated with the development that could not reasonably have been anticipated in advance. These occasionally may justify a reduction in the level of affordable housing provision (see above).



**5.55** Where there is a potential conflict between different planning objectives on a particular site the Council will review the relative priority of the obligations sought.

**5.56** There may be cases where there is an extant planning permission with no requirement to provide affordable housing and a fresh planning application is submitted for a revised scheme. If the site is suitable for affordable housing, having regard to the policies of the Local Plan, the Council will seek to secure an element of affordable housing in accordance with those policies and this SPD. The extant planning permission will be a material consideration, but in most cases it is anticipated that the policies of the local plan will have primacy.

**5.57** For the avoidance of doubt, where a proposal involves the redevelopment of an existing residential site it will be the gross number of units, i.e. the number of units proposed in the application, which will determine whether the site is above or below the threshold for seeking an element of affordable housing.

### Pre-application Discussions

**5.58** The Council is aware of the value of developers having pre-application discussions; these can save both unnecessary work and time for all concerned. With schemes involving affordable housing the benefits of early discussions are particularly beneficial. For example where matters relating to the types and number of affordable units, and finance, can be resolved early, this may help developers when making their bids to purchase particular sites.

**5.59** The SPD provides assistance on a wide range of important matters, but in addition the planning officers will be available to offer assistance at an early stage, bringing in the help of other colleagues in Housing and elsewhere to provide relevant advice. Following the establishment of the principle of the appropriate amount and type of affordable housing, developers should make early contact with a RSL recommended by the Council. The Council selects its preferred RSL partners periodically based on a rigorous assessment. RSLs which have 'preferred' status will have the required development expertise in the area and have the necessary management presence and skills to provide an appropriate on-going service to tenants. The list of preferred RSL partners is appended (Appendix 4 'RSL Preferred Partners and the Local Authority Contacts, September 2007'). The Council will assist with the process of putting developers in contact with appropriate RSL partners.

**5.60** Pre-application agreement on matters of principle relating to numbers and types of unit and any Heads of Terms for any legal agreement will be expected to be resolved in advance of the submission of the application. Moreover, the Council will endeavour to ensure that the commencement of the drafting of any legal agreement takes place before the application is reported to committee so that time may be saved after any positive committee resolution. Appended is a list of issues which may be appropriately covered in a S.106 Planning Obligation in Dover for schemes involving affordable housing.

### Integration of Affordable Housing

**5.61** It is both the Council's and Government's aim to ensure that different tenure types should be developed in a mixed and integrated way, and the mixing of affordable tenure types within the market housing, sometimes called '*peppercotting*', will be encouraged. However, it is recognised that there may be management issues to consider, and in the context of Dover the level of integration sought will be guided by the following:

- in housing schemes the maximum number of affordable homes built in a cluster will be in the region of 6 to 10 units subject to individual circumstances.
- in flatted schemes it may be acceptable for the accommodation served by the same lift/stairwell to be of the same tenure type.



**5.62** High standards of design and amenity consideration will be expected of affordable housing as is, of course, expected of all other forms of residential accommodation. Poor quality development contrary to local and national policy and guidance will not be tolerated. Moreover, the Council will strive to ensure that there is no perceptible difference, in visual terms, between the market and affordable units within individual schemes.

### **Service and Management Charges**

**5.63** Often when affordable housing is built together with general market housing there will be a requirement on the occupiers to pay service or management charges. It is important that such charges are minimised in order to ensure that the affordable units remain affordable to the occupiers and therefore any such charges will be considered as part of the housing costs. As a guide, the service/management charges should not normally be greater than the prevailing assumed housing benefit service charge (HBSC) used by the Housing Corporation.

**5.64** The RSL partner should be contacted early in the design process of a scheme for advice on the acceptable level of service charges and whether through amendments to the design, charges can be reduced. Consideration will also be given to the level of service intended and whether or not it is appropriate for some of the services offered to be available to the occupiers of the market housing only.

### **Standards**

**5.65** Where affordable housing is provided with the assistance of public subsidy, the units should, as a minimum, be built to the prevailing Housing Corporation standards and, if relevant, take account of any RSL design brief or development brief. The current Housing Corporation Scheme Development Standards can be downloaded at <http://www.housingcorporation.org.uk>. RSLs are required to ensure that their new properties are constructed to meet the ECO-Homes rating of 'Very Good'. RSLs will be able to assist developers in the implications of achieving this rating in individual schemes. RSLs are also encouraged to build to 'Lifetime Homes' standards and the Council will therefore seek to maximise the amount of affordable housing built to this standard. The Council will review the need for wheelchair accommodation in the District and will seek a proportion in line with its findings. In the interim the Council will generally expect 10% of the affordable housing to be to wheelchair standards unless it can be shown that fewer units of that type are required in a particular scheme. All relevant Local Plan and emerging Local Development Framework policies, standards and concept statements, apply to affordable housing as they would to general market housing and should be complied with. The same design considerations should also be applied to the affordable housing as to the open market housing (see para 5.62).





## Appendix 1 Local Data

Table 1.1 Access Sales Levels (£) July 2003

Property Type	Dover	Deal	Sandwich	Rural Area	District Wide
1 bed flat	62,000	58,337	ND	71,250	63,862
2 bed flat	61,997	75,650	ND	80,611	72,752
2 bed terrace	76,982	95,725	110,000	99,981	95,672
3 bed terrace	85,286	95,158	137,987	97,983	104,103
2 bed semi-det	76,200	97,350	ND	121,450	98,333
3 bed semi-det	99,316	105,316	146,247	130,874	120,438

Table 1.2 Average and Access Rent Levels in the Dover District (£/month) - July 2003

Property Type	Dover		Deal		Sandwich		Rural Area		District Wide	
	Average	Access	Average	Access	Average	Access	Average	Access	Average	Access
1 bed flat	350	300	365	280	375	350	375	325	365	315
2 bed flat	395	350	450	420	450	450	505	375	450	400
2 bed terrace	435	350	490	425	550	550	500	450	495	445
3 bed terrace	460	400	525	440	650	650	565	495	550	495
2 bed semi-det	440	425	490	485	650	650	575	475	540	510
3 bed semi-det	485	425	610	500	725	695	570	510	600	535

Table 1.3 Examples of Actual Rents in Recent RSL Developments in the District

Unit Size/Type	Rent (per week)	Service Charge (per week)	Location
1 bed flat	£53.48	£2.84	Dover
2 bed flat (w/chair)	£70.34	£2.84	Dover
2 bed house	£71.37	N/A	Deal
3 bed house	£77.43	N/A	Deal
1 bed maisonette	£59.25	-	Deal
4 bed house	£83.49	-	Deal
3 bed house	£79.35	-	Deal



Table 1.4 Tenure Split by Ward - Census 2001

Ward	Owned Outright	Shared Ownership	Social rented	Private rented	Living rent free
Aylesham	60.2	0.5	28.7	6.4	4.2
Buckland	57.6	0.4	31.7	7.7	2.5
Capel-Le-Ferne	87.3	0.3	6.5	4.6	1.3
Castle	55	0.4	19	22.2	3.5
Eastry	75.7	0.2	12.5	8.8	2.9
Eythorne and Shepherdswell	75.6	0.3	15.3	6.7	2.1
Little Stour and Ashstone	73	0.4	12.5	11.1	3.1
Lydden and Temple Ewell	87.4	0.3	4.6	6.1	1.5
Maxton, Elms Vale and Priory	77.1	0.6	6.3	14.5	1.5
Middle Deal and Sholden	76.6	0.6	13.6	7.3	1.9
Mill Hill	72.8	0.4	18.2	6.4	2.3
North Deal	70.4	1	8.7	18.2	1.7
Ringwould	84.9	0	7.8	4.3	3.0
River	90.8	0.4	3.5	4.3	0.9
Sandwich	74.5	0.1	11.4	9.9	4.1
St Margaret's-at-Cliffe	73.2	0.2	8.8	14.6	3.2
St Radigunds	52.1	0.2	31.2	13.8	2.7
Tower Hamlets	52.8	1.1	23.5	20.3	2.3
Town and Pier	39	0.3	49.7	8.1	2.9
Walmer	77.5	0.3	9.3	11.3	1.5
Whitfield	84.7	0	10.5	3.2	1.6
<b>Dover</b>	<b>71.3</b>	<b>0.4</b>	<b>15.4</b>	<b>10.5</b>	<b>2.4</b>

Table 1.5 Demand by Accommodation size - April 2005

*	Dover			Deal			Sandwich			Rural		
*	1b	2b	3/4b	1b	2b	3/4b	1b	2b	3/4b	1b	2b	3/4b
<b>No.</b>	434	199	175	333	180	129	167	107	73	479	314	241
<b>%</b>	54	25	21	52	28	20	48	31	21	46	31	23
<b>Rounded</b>	55	25	20	50	25	25	50	30	20	50	30	20

Source: Housing Strategy Statement 2005-2009



## Appendix 2 Methodology for Calculation of Internal Cross-Subsidy and Worked Example

**2.1** This Appendix (referred to in paragraph 5.19 of this SPD) provides a worked example for illustrative purposes only. It is intended to illustrate a possible scenario for the practical application of the guidance set out in this SPD.

**2.2** Use of the methodology in the worked example is recommended as best practice for prospective developers when undertaking a financial appraisal of a potential development site. Its use will result in calculation of a residual land value.

**2.3** If the residual land value is positive, it should be possible to provide the required proportion of affordable housing without the need for any public subsidy (such as Social Housing Grant). This is because it will, in effect, benefit from internal cross-subsidy via a reduced land value.

**2.4** The methodology may be used to construct a financial forecasting model (for example a spreadsheet application). Refinements may be introduced to reflect the availability of data, subject to the calculations producing a residual land value.

**2.5** It may be appropriate to run the model several times to test the viability of different scenarios and the sensitivity of the results to changes in the assumptions used.

**2.6** The methodology should form the basis of an 'open book' approach to the assessment of development viability. If requested, the District Council will treat information provided in this way as submitted in commercial confidence.

**2.7** If a negative residual land value results there may be a case for:

- In the first instance, deploying public subsidy (usually Social Housing Grant) to ensure the continued viability of a scheme with the preferred tenure mix, or failing this,
- Amending the tenure type in favour of more intermediate housing but ensuring that the overall affordable proportion (30%) is maintained, or,
- Reducing the overall proportion of affordable housing to a level required to produce a 'break even' position.

**2.8** In such circumstances it is essential to discuss the matter beforehand with the District Council and its partner housing associations before proceeding to a planning application.

### Worked Example

**2.9** In this example, a notional scheme of 146 units is selected. All the cost and sales figures are based on a recent example in Dover. The income from the sale of the affordable housing assumes no grant and a ratio of 70:30, social rented to intermediate housing. This is also based on recent RSL experience.

**2.10** The example shows that the residual land value would equate to £3,207,887. On the basis of the site becoming 4ha, the value of the land would be £801,971 per ha and no grant would be required to deliver the 44 units of affordable housing.

### Methodology for Calculation of Internal Cross-Subsidy

	Methodology Step	Worked Example
1	Estimate total capacity of site (number of dwellings)	146
2	Estimate total residential floorspace	10,0053.33m <sup>2</sup>



	Methodology Step	Worked Example
3	Calculate required proportion of affordable housing	3,016m <sup>2</sup> (at 30% of figure at 2 above - 44, units)
4	Deduct result of Step 3 from Step 2 to give net amount of saleable market housing floorspace	7,037.33m <sup>2</sup>
5	Estimate gross income from sales stream from market sale housing	£14,778,400 (assumed @ £2,100 per m <sup>2</sup> )
6	Add estimate income from sale of affordable housing (see para 12 above)	£3,690,447 (assumed @ £1,223.62 per m <sup>2</sup> based on RSL recent experience)
7	Add results of Steps 5 & 6 to give total gross income from development	£18,468,847
8	Estimate total build costs	£12,064,000 (assumed @ £1,200 per m <sup>2</sup> )
9	On-costs @ 10%	£1,206,400
10	Add Steps 8 and 9 to give total costs	£13,270,400
11	Deduct results of Step 10 from total at Step 7 to give gross residual	£5,198,447
12	Profit margin (15% of costs at Step 10)	£1,990,560
13	Deduct Step 12 from Step 11 to give the net residual land value	£3,207,887

Table 2.1 Methodology for Calculation of Internal Cross-Subsidy



## Appendix 3 Methodology for Calculating Financial Contributions in Lieu of On-Site Provision of Affordable Housing

**3.1** Paragraph 5.39 of this SPD refers. This Appendix explains the Council's approach towards accepting alternatives to actual on-site provision in exceptional circumstances and, in the case of financial contributions, two options for calculating such contributions. A worked example of such a calculation is included at the end.

**3.2** This guidance is intended to ensure a fairer, more transparent and consistent approach on this matter.

### Background Information

**3.3** The SPD explains that in the vast majority of cases it will only be appropriate for provision to be on site. This also reflects the importance of social integration. However, PPS3 (para29) also allows for off-site and/or financial contribution solutions in-lieu of on-site provision in circumstances where it can be 'robustly justified'. This Appendix is intended to provide a clearer framework for dealing with the very limited number of cases where this situation may arise.

### Practical Difficulties Associated With Off-Site Provision

**3.4** Before advocating the alternative of any form of off-site provision, prospective developers are asked to appreciate that its acceptance runs the risk of creating a significant number of practical difficulties.

**3.5** In the case of financial contributions in lieu of on-site provision, the Council's Partnership Registered Social Landlords (RSLs) will need to:

- Find suitable alternative land or property to purchase in the locality.
- Prepare and submit schemes for approval within the budget provided by any cash contribution.
- Ensure any scheme fit in with their own and the Council's annual capital programmes.
- Complete their purchase of alternative sites or properties.

**3.6** All the above will take time, and is subject to potential risk, delay and uncertainty. Allowance must also be made for the effects of inflation.

**3.7** It is equally important that there should be the reasonable prospect of the equivalent alternative provision of affordable housing occurring within the same area and within the same timescale as the development giving rise to the affordable housing requirement. The onus should therefore be on a prospective developer to fully investigate these prospects. For the purpose of any evaluation exercise, a three year time horizon is considered appropriate, as this reflects the normal life of a planning permission. Without such a safeguard there is a risk of the responsibility of implementation that would otherwise occur on-site being passed onto the Council and its partner RSLs.

### General Principles

**3.8** The primary objective of Local Plan Policy HS9 is to facilitate the actual delivery of affordable housing. It therefore follows that such housing should always form an integral part of new housing schemes as and when they come forward for development.

**3.9** The District Council's general policy on off-site provision is therefore set out in **Preferred Principle 3** Page 17. Detailed guidance on the interpretation and implementation of this policy is given below.



**3.10** In order to satisfy test (4) of **Preferred Principle 3**, it may be necessary for a developer to clearly demonstrate the availability and suitability of an alternative site by submitting a parallel planning application covering the “off-site” element. This applies in cases where a developer proposes physical provision on an alternative site within his ownership or control. It will be necessary for any such parallel application to be approved first to demonstrate the suitability of the alternative site.

### Exceptional Circumstances

**3.11** If a site is suitable for housing development within the terms of the guidance in PPS3 and emerging LDF policies, the alternative of off-site provision of affordable housing is unlikely to be appropriate. Therefore such cases are likely to be exceptional and by their very nature it is impossible to provide an exhaustive list of such exceptional circumstances in this guidance note.

**3.12** Nevertheless possible examples of such circumstances include:

1. Cases where physical constraints on the site and/or its surroundings necessitate development to such a low density that the size of gardens and/or management costs would render the maintenance of affordable housing uneconomic on the site.
2. Cases where an alternative site, in the same town or village:
  - a. is in the ownership or control of the prospective developer, and;
  - b. is suitable for residential development in planning terms, and;
  - c. where the same quantity, type and quality of affordable housing could be made available at an **earlier** date.
3. Cases where the Council deems it appropriate to secure part on-site and part cash in-lieu to secure other affordable housing objectives (see para. 5.38).

### Practical Considerations

**3.13** If a developer considers there are sound *planning* grounds for preferring the alternative of off-site provision, the developer should submit at the earliest possible opportunity (preferably before a planning application is lodged) the following information:

1. Brief details of the proposed development in question, including the anticipated development timetable.
2. A detailed explanation of why the alternative of off-site provision is considered more appropriate (having regard to the advice elsewhere in this note) in this particular case.
3. Details of the alternative proposed. For example, a cash contribution to be secured by way of a Section 106 Agreement equivalent to the cost of providing a specified number of homes off-site.
4. Either:
  - a. Details of an alternative site:
    - in the same town or village, and;
    - in the ownership or control of the developer, and which;
    - either benefits from an extant planning permission or is acceptable for development in terms of the Local Plan’s policies, and which;
    - the developer proposes to make available at an earlier date as an alternative site for the required affordable housing.
  - Or:
  - b. Details of the enquiries that the developer has made of the Council’s preferred RSLs confirming the firm availability:



- within the likely timescales of the proposed development (and in any case within three years), and;
- within acceptable costs of suitable land or buildings (which could include existing identified dwellings in a satisfactory condition) which a RSL would be prepared to acquire in order to provide an alternative off-site location for the required affordable housing.

## Parity

**3.14** In order to remove any inadvertent financial incentive to the developer for off-site provision, and to reflect the added difficulties of off-site provision, it is considered fair and reasonable to require parity of provision. The way the 'parity' rule would work is illustrated in the example below:

## Worked Example

Assuming:

- a housing scheme consisting of 100 dwellings is proposed;
- provision of 30% of these homes (equating to 30 dwellings) in the form of affordable housing is agreed, but;
- a cash payment in-lieu is agreed in accordance with this guidance.

In these circumstances the number of market homes on-site would be 100 and not 70 as would be the case were the affordable element to be provided on-site as well. Thus, it is necessary, for parity, to maintain the ratio of market housing to affordable housing at 70:30, which would mean that the off-site element would equate to 43% if it is to be 'of broadly equivalent value'. This would be applied to the number of open market homes (i.e. 43% of 100 = 43). In other words, whereas on-site provision of affordable housing would have been for 30 dwellings, a cash-in-lieu equivalent contribution will have to equate to 43 dwellings.

## Methods of Calculating Contributions

**3.15** Where a financial contribution is appropriate, the contribution will be calculated according to one or other of the following two options. Both are based on the principle that the contribution should be equivalent to the amount of subsidy required to secure delivery of an equivalent level of affordable housing off site, adjusted as necessary by the parity rule set out above.

**Option 1.** A fully costed proposal to be funded with a contribution determined by prior agreement with one of the Council's partner housing associations, or

**Option 2.** A contribution calculated on basis of the formulae set out at paragraph 3.17 of this Appendix, subject to indexation.

**3.16** Please note that before any calculation can be properly made using these formulae it will be necessary to agree a surrogate stock mix. This will be proposed by the Council with reference to current information on housing needs.

**3.17** In cases where **Option 2** above is agreed, the contribution will be calculated using one of the following formulae:

Where: SHG = Social Housing Grant assumed to be available by Council.

N = Number of affordable housing units (at parity) (rounded up to the nearest whole unit).

**Greenfield sites – 85% x Open Market Value (OMV) minus the amount of a mortgage which can be serviced from the rental income stream x N = £ contribution**



***Urban sites – 85% x OMV minus any SHG which is considered likely to be available, minus the amount of a mortgage which can be serviced from the rental income stream x N = £ contribution***

### Arrangements for Payment or Physical Provision Off-Site

**3.18** The necessary legal agreement will provide for any financial contribution in-lieu or physical provision off-site elsewhere to be made prior to completion of not more than 30% of the units on the site or phase which gives rise to the required contribution. This latter provision is considered to be justified by the need for this Authority to maintain a stable social housing enabling programme, whilst at the same time allowing developers to obtain some sales receipts. On larger developments, and only where the Council considers it appropriate, a proportion of the total affordable contribution (physical off-site or financial) will be required in a similar proportion to the amount of development in that agreed phase. In other words, if phase 1 of a development represents 40% of the whole scheme, 40% of the affordable contribution will be required in relation to that phase. The 'proportional' contribution will be provided by the developer prior to completion of not more than 30% of the units in the relevant phase.

### Indexation

**3.19** Having regard to paragraph 3.17 of this Appendix, and in order to protect the value of financial contributions from erosion by inflation, the Section 106 Agreement by which such contributions will be secured will provide for these to be based upon the figures applicable in the financial year in which the payment is actually made or alternatively by reference to movements in average house prices within the District as reported in date published by the Land Registry. This will provide an indexation mechanism. Therefore prospective developers are warned that the actual payment required could be greater if it is not made in the same financial year in which the corresponding legal agreement is signed.

### Provision In Kind

**3.20** Whilst proposals for provision in kind of land or property within the same town or village as the development giving rise to a requirement for affordable housing will be considered, such provision will only be acceptable where:

1. This Authority is satisfied that the objective of social integration would not be compromised.
2. The off-site provision would be equal to or better than that which would have been provided on-site.

### Outline Planning Applications

**3.21** Where a financial contribution in-lieu is appropriate, this will need to be determined with reference to the number of dwellings to be built on site. In the case of outline planning applications, the number of dwellings is not normally known. Therefore the calculation will need to occur at the "reserved matters" submission stage, and will be based on figures prevailing at that time. Each reserved matter application will be considered as a phase to which the formula in para. 3.17 above will apply.

### Worked Examples: Formulae For Calculating Off Site Contributions

#### Greenfield site

A: OMV of 1 unit = £200,000

B: 85% OMV = £170,000

C: Mortgage generated from rental stream (say 35% x OMV) = £70,000



D: B minus C = £100,000 = in-lieu sum from developer

**Urban site**

A: OMV of 1 unit = £200,000

B: 85% OMV = £170,000

C: Grant (say equivalent of 20% x OMV) = £40,000

D: B minus C = £130,000

E: Mortgage generated from rental stream (say 35% x OMV) = £70,000

F: D minus E = £60,000 in-lieu sum from developer





## Appendix 4 RSL Preferred Partners and the Local Authority Contacts, September 2007

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## Appendix 5 Model Heads of Terms for Section 106 Agreements/Conditions

**5.1** Where it is agreed that affordable housing is to be provided in accordance with the Local Plan policies planning obligations or conditions will be used to secure provision. When no RSL is involved a S106 agreement will always be required to secure the affordable housing whether it is an outline, full or reserved matters application. However, if a RSL has a legal interest in the site the affordable housing should normally be secured by way of condition at the outline, full or reserved matters stage. Negotiations with developers will be based upon one of the Council's model legal agreements, the heads of terms of which are set out in the following order of preference:

1. On-site provision (except in exceptional circumstances)
  - for rent; and
  - for sale.
2. Part on-site and part off-site/commuted payment;
3. Off-site
  - provision by applicant, developer or RSL;
  - commuted payment;
  - transfer of Land.

**5.2** Heads of terms should address location (e.g. on site), the issue of subsidy, the number, size, cost, standard, specification of the units, mix and type of affordable housing, the programme and timetable for provision (housing), commuted sums, occupancy, management and long term ownership, cascade mechanism and service charge levels.

**5.3** A combination of terms under each of the model agreements may occasionally be appropriate e.g. when a combination of on-site and off-site provision is secured depending on the agreed form of affordable housing provision. The Council may also agree phased provision and transfer of affordable housing on large scale development sites. Standard affordable housing conditions are also provided.

### General Matters to be Covered in Agreements/Conditions

#### Securing Affordable Housing in the Longer Term

**5.4** The affordable housing should only be used for the purposes of providing accommodation to be occupied by households in need of affordable housing in the Dover area and to meet the objectives of a RSL.

#### Design Related Considerations

**5.5** The location of the affordable housing is approved in Plan number U comprising of V units with a housing mix of W 1 bed unit, X 2 bed unit etc with floorspace/bedspaces area comprising of  $Ym^2$  per unit for 1 bed units,  $Zm^2$  for 2 bed units etc in accordance with the planning permission.

**5.6** The units shall be constructed to the minimum standards specified in the Housing Corporation Scheme Development Standards or in accordance with such other guidance as shall be issued by any successor body in substitution.

**5.7** The units shall not be used for any other purpose except the agreed affordable housing provision.

#### Occupancy Criteria

**5.8** Not to permit or allow the affordable housing units to be occupied by any person(s) except person(s) satisfying the following occupancy criteria:

1. They have lived in the local community for at least 3 consecutive years, or were born and brought up in the community and have lived either in non self-contained accommodation, in overcrowded conditions or self contained accommodation inadequate for their needs; or



2. They are existing residents who require separate accommodation within the local community, such as newly married couples; or
3. They are already principally employed in the community; or
4. They have an offer of employment in the area but cannot take up the offer because of a lack of affordable accommodation; or
5. They wish to move into the community in order to look after an infirm or elderly relative or to be looked after by a relative already resident in the community.
6. Both initial and subsequent occupiers shall not already have a mortgage or own a residential property and shall have not recently sold a property, i.e. in the last 5 years unless the council is satisfied that the occupier has an exceptional need for the affordable home.
7. In the opinion of the RSL is in need of affordable housing and no other person falling within the categories set out above is found who is willing to become a tenant of the affordable housing unit within a period of 4 weeks from the date upon which the affordable housing unit becomes available.
8. References to community are defined for initial occupiers as the District of Dover. If successive occupiers cannot be found within the District, occupiers resident in the adjoining local authority areas of Thanet and Canterbury will be sought. The Council will require proof that substantial efforts have been made to find a local occupier before the eligible area is widened to the next level.

#### **Mortgagee in Possession Clause**

**5.9** It is hereby agreed between the parties to this deed that the obligations contained in this deed shall not bind a mortgagee of any Registered Social Landlord that may acquire by way of long lease or better title the affordable housing units or any receiver appointed by such mortgagee or chargee and the said obligations shall thereafter cease to have effect in relation to the affordable housing units (or such part thereof as may be affected) in the event of such mortgagee or chargee becoming a mortgagee in possession of the affordable housing units or any part thereof.

#### **Exclusion from Right to Buy**

**5.10** The affordable housing units which were secured without public subsidy shall be excluded from any Voluntary Purchase Grant scheme and from any right to buy introduced in favour of the occupiers of the affordable housing units and/or from any other mechanisms that could result in any of the affordable housing units becoming available for sale in the private housing market.

### **On-Site Provision**

#### **Model Legal Agreement 1**

#### **Developer Builds and Transfers Affordable Housing Units to Registered Social Landlord**

##### **Developer's obligations**

- Not to commence the development until the Developer has obtained the approval of the Council to a programme and timetable for the provision of the Affordable Housing Units and to the location, type, cost, standard, size and level of servicing of and element of subsidy in respect of such units.
- To construct the Affordable Housing Units to the standard required by the Housing Corporation Scheme Development Standards and in accordance with the approval referred to above.
- Not to occupy or permit occupation of any of the dwellings comprised in the development which are to be sold or let on the open market until the Developer has transferred (either by freehold transfer or lease for a term of at least 125 years) the Affordable Housing Units (fully serviced and accessible by vehicles and pedestrians) to the RSL (at a sum calculated using the Cost Guidelines in this SPD).
- As an alternative to the immediately preceding obligation, (to be used only where that obligation in the opinion of the Council is not practical).



- not to occupy more than an agreed percentage of the dwellings comprised in the development which are to be sold or let on the open market until the Developer has entered into an unconditional contract with the RSL for the sale (either by freehold transfer or lease for a term of at least 125 years) of the Affordable Housing Units to the RSL (at a sum calculated using the Cost Guidelines in this SPD) when such units have been substantially completed and has produced to the Council evidence of such contract.
- not to occupy the remainder of the dwellings to be sold on the open market until the Council has been provided with evidence that all of the Affordable Housing Units have been transferred to the RSL (either by freehold transfer or lease for a term of at least 125 years) in accordance with the contract referred to above.
- To procure that the Affordable Housing Units are either let by a RSL in accordance with its objectives and with such published housing waiting list and allocation system as it may adopt or are made available by a RSL for shared equity leasing depending upon the agreed split (if any) between Affordable Housing Units available for rent and those available for shared equity.
- To procure that those Affordable Housing Units which are to be let (as opposed to those which are to be made available for shared equity) are occupied by persons considered by a RSL to be in need of such accommodation and the RSL shall have regard to the categories of medical and social priority as referred to in the Council's housing waiting list and to those persons accepted by the Council as homeless and who fall within the Council's Occupancy Criteria.

**5.11** If after using all reasonable endeavours the Developer has been unable to dispose of the Affordable Housing Units to a RSL upon the terms specified above and within an agreed timescale from the date of occupation of the first of the dwellings which are to be let or sold on the open market it will notify the Council of this fact and comply with such alternative method of securing such on site affordable housing benefits (to a value no less than that which would have been achieved had the Developer disposed of the Affordable Housing Units to a RSL as provided for above) as shall be specified by the Council and within such reasonable timescale as the Council shall require. If after using all reasonable endeavours for reasons beyond his/her/its control the Developer has been unable to comply with such alternative method within a further period of 12 months the Developer shall immediately pay to the Council a sum equal to the value which would have been achieved had the Developer disposed of the Affordable Housing Units to a RSL as provided for above such sum to be used by the Council to facilitate the provision of affordable housing within a specified area.

**5.12** Council's Obligations (where Developer pays a commuted sum in lieu of providing Affordable Housing Units)

- To use the payment received from the Developer to facilitate the provision of affordable housing within a specified area.
- In the event that the contribution towards affordable housing (or any part of it) has not been spent or committed within a period of five years from the date of payment to repay, provided it is requested, the part not spent or committed to the Developer together with interest on such sum at prevailing bank rates from time to time from the date of receipt until the date of repayment.

### **Model Legal Agreement 2**

#### **Developer Transfers Serviced Affordable Housing Land to Registered Social Landlord and Pays a Commuted Sum to the Council/RSL**

##### **Developer's obligations**

**5.13** Not to commence the development until the Developer has:

- obtained the approval of the Council to a programme and timetable for the provision of the Affordable Housing Units and to the location, type, cost, standard, size and level of servicing and element of subsidy in respect of such units.
- entered into an unconditional contract with a RSL for the transfer to such RSL (either by freehold transfer or lease for a term of at least 125 years) of all of the land required for the Affordable Housing Units such transfer to be effected when all services and access have been provided.



- paid to the Council/RSL a sum for the provision of the Affordable Housing Units calculated (using the Cost Guidelines in this SPD) at the date of payment. Alternatively this sum can be paid simultaneously with the transfer to the RSL of the land required for the Affordable Housing Units. In that event the Developer will be required to provide a Bond.
- Not to occupy or permit occupation of any of the dwellings comprised in the development which are to be sold or let on the open market until the Developer has transferred to the RSL for no consideration (either by freehold transfer or lease for a term of at least 125 years) all of the land required for the Affordable Housing Units (fully serviced and accessible by vehicles and pedestrians).
- To procure that the Affordable Housing Units are constructed to the standard required by Housing Corporation Scheme Development Standards.
- To procure that the Affordable Housing Units are either let by a RSL in accordance with its objectives and with such published housing waiting list and allocation system as it may adopt or are made available by a RSL for shared equity depending upon the agreed split (if any) between Affordable Housing Units available for rent and those available for shared ownership equity.
- To procure that those Affordable Housing Units which are to be let (as opposed to those which are to be made available for shared equity) are occupied by persons considered by a RSL to be in need of such accommodation and the RSL shall have regard to the categories of medical and social priority as referred to in the Council's housing waiting list and to those persons accepted by the Council as homeless and who fall within the Council's Occupancy Criteria.

**5.14** If after using all reasonable endeavours the Developer has been unable to find an RSL which is prepared to take a transfer of the land for the provision of the Affordable Housing Units upon the terms specified above within an agreed timescale of entering into the Section 106 Agreement the Developer will notify the Council of this fact and comply with such alternative method of securing the affordable housing benefits and within such reasonable timescale as shall be specified by the Council. If after using all reasonable endeavours the Developer has been unable to comply with such alternative method within a further period of 12 months the Developer shall immediately pay to the Council the agreed value of the land which was allocated for the Affordable Housing Units for use by the Council to facilitate the provision of affordable housing within a specified area.

#### **5.15 Council's obligations**

- To use the payment received from the Developer to facilitate the provision of affordable housing within a specified area.
- In the event that the contribution towards affordable housing (or any part of it) has not been spent or committed within a period of five years from the date of payment to repay, provided it is requested, the part not spent or committed to the Developer together with interest on such sum at prevailing bank base rates from time to time from the date of receipt until the date of repayment.

### **Model Legal Agreement 3**

#### **Affordable Housing Provided and Managed by Developer with no Registered Social Landlord Involvement**

##### **Developer's obligations**

- Not to commence the development until the Developer has obtained the approval of the Council to a programme and timetable for the provision of the Affordable Housing Units and to the location, type, cost, standard, size and level of servicing of such units.
- To construct the Affordable Housing Units to the standard required by the Housing Corporation Scheme Development Standards and in accordance with the approval referred to above.
- Not to occupy or permit occupation of any of the dwellings which are to be sold or let on the open market until the Affordable Housing Units are all available for immediate occupation.



- To procure that the Affordable Housing Units are occupied only by persons approved in writing by the Council (such approval not to be unreasonably withheld or delayed if such persons satisfy the criteria contained in the Council's housing allocations policy which is current at the date upon which the approval is requested).
- Not to charge to its tenants of the Affordable Housing Units any rent in excess of the Housing Corporation target rents, unless otherwise agreed.

## **Off-Site Provision**

### **Model Legal Agreement 4**

#### **Developer Builds and Transfers Off-Site Affordable Housing Units to Registered Social Landlord**

##### **Developer's obligations**

**5.16** Not to commence the development until the Developer has:

- acquired the freehold interest in a site of sufficient size and within a specified area (to be approved by the Council) to provide the Affordable Housing Units
- obtained full planning permission for the Affordable Housing Units and
- obtained the approval of the Council to a programme and timetable for the provision of the Affordable Housing Units and to the location, type, cost, standard, size and level of servicing of and element of subsidy in respect of such units.
- To construct the Affordable Housing Units to the standard required by the Housing Corporation Scheme Development Standards in accordance with the approval referred to above.
- Not to occupy or permit occupation of any of the dwellings comprised in the development which are to be sold or let on the open market until the Developer has transferred (either by freehold transfer or lease for a term of at least 125 years) the Affordable Housing Units (fully serviced and accessible by vehicles and pedestrians) to the RSL (at a sum calculated using the Cost Guidelines in this SPD).
- As an alternative to the immediately preceding obligation, (to be used only where that obligation in the opinion of the Council is not practical).
- not to occupy more than an agreed percentage of the dwellings comprised in the development which are to be sold or let on the open market until the Developer has entered into an unconditional contract with the RSL for the sale (either by freehold transfer or lease for a term of at least 125 years) of the Affordable Housing Units to the RSL at a sum calculated using the Welsh Assembly Government Acceptable Cost Guidelines when such units have been substantially completed and has produced to the Council evidence of such contract.
- not to occupy the remainder of the dwellings to be sold on the open market until the Council has been provided with evidence that all of the Affordable Housing Units have been transferred to the RSL (either by freehold transfer or lease for a term of at least 125 years) in accordance with the contract referred to above.



- To procure that the Affordable Housing Units are either let by a RSL in accordance with its objectives and with such published housing waiting list and allocation system as it may adopt or are made available by a RSL for shared equity leasing depending upon the agreed split (if any) between Affordable Housing Units available for rent and those available for shared equity.
- To procure that those Affordable Housing Units which are to be let (as opposed to those which are to be made available for shared equity) are occupied by persons considered by a RSL to be in need of such accommodation and the RSL shall have regard to the categories of medical and social priority as referred to in the Council's housing waiting list and to those persons accepted by the Council as homeless and who fall within the Council's Occupancy Criteria.

**5.17** If after using all reasonable endeavours the Developer has been unable to dispose of the Affordable Housing Units to a RSL upon the terms specified above and within an agreed timescale from the date of occupation of the first of the dwellings which are to be let or sold on the open market it will notify the Council of this fact and comply with such alternative method of securing the affordable housing benefits (to a value no less than that which would have been achieved had the Developer disposed of the Affordable Housing Units to a RSL as provided for above) as shall be specified by the Council and within such reasonable timescale as the Council shall require. If after using all reasonable endeavours for reasons beyond his/her/its control the Developer has been unable to comply with such alternative method within a further period of 12 months the Developer shall immediately pay to the Council a sum equal to the value which would have been achieved had the Developer disposed of the Affordable Housing Units to a RSL as provided for above such sum to be used by the Council to facilitate the provision of affordable housing within a specified area.

**5.18** Council's Obligations (where Developer pays a commuted sum in lieu of providing Affordable Housing Units)

- To use the payment received from the Developer to facilitate the provision of affordable housing within a specified area.
- In the event that the contribution towards affordable housing (or any part of it) has not been spent or committed within a period of five years from the date of payment to repay, provided it is requested, the part not spent or committed to the Developer together with interest on such sum at prevailing bank rates from time to time from the date of receipt until the date of repayment.

### **Model Legal Agreement 5**

#### **Financial Contributions by Developer**

##### **Developer's obligations**

- Not to commence the development until the Developer has paid to the Council a sum to facilitate the provision of affordable housing such sum to be calculated on the notional basis of a specified number of dwellings each containing a specified floor area and a specified number of bedrooms and by using the Cost Guidelines in this SPD applicable to such dwellings prevailing at the date of payment.
- Not to permit the occupation of more than 50% of the development until the developer has paid a commuted sum.

##### **Council's obligations**

- To use the payment received from the Developer to facilitate the provision of affordable housing within a specified area.
- In the event that the contribution towards affordable housing (or any part of it) has not been spent or committed within a period of five years from the date of payment to repay, provided it is requested, the part not spent or committed to the Developer together with interest on such sum at prevailing bank base rates from time to time from the date of receipt until the date of repayment.



## Model Conditions

**5.19** Affordable housing is best secured by way of condition in circumstances when a RSL has a legal interest in the site.

### Model Conditions - General

**5.20** The affordable housing accommodation shall only be occupied by people who meet the Council's occupancy criteria or eligibility criteria of a RSL.

*Reason: To ensure the affordable housing is occupied by people who are in genuine housing need.*

### Model Conditions – Outline Applications

**5.21** No development shall take place until the details of the arrangements for the provision of affordable housing as part of the development hereby permitted have been submitted to and approved in writing by the local planning authority; the development shall be carried out in accordance with the approved arrangements; the details of the arrangements for the provision of affordable housing shall provide for at least x% of the units in the development to be in dwellings which form part of the affordable housing provision, and shall include:

- a. the numbers, type and locations on the site of the affordable housing provision to be made;
- b. the timing of the construction of the affordable housing;
- c. the arrangements to be made, whether by means of an Obligation under section 106 of the Town and Country Planning Act 1990 or otherwise, to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
- d. the occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

*Reason: The site is considered to be a suitable site as defined in Policy HS9 of the Dover District Local Plan where x% affordable housing must be provided on-site.*

### Model Condition/Clause – Restricting Service Charge Levels

**5.22** The service charge per unit shall not exceed £350 per annum subject only to an increase in line with All Items Retail Prices Index published by the Office for National Statistics or if such index ceases to be published such equivalent index as shall be approved in writing by the local planning authority.

*Reason: To ensure the affordable housing is provided on-site by restricting the service charge to a level which it is considered is affordable to a RSL.*





## Appendix 6 Glossary of Terms and List of Abbreviations

### Affordable Housing

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

- Meet 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.
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

### Affordability

**6.2** The terms ‘affordability’ and ‘affordable housing’ have different meanings. ‘Affordability’ is a measure of whether housing may be afforded by certain groups of households. ‘Affordable housing’ refers to particular products outside the main housing market.

### Development Plan

**6.3** A document setting out the local planning authority’s policies and proposals for development and the use of land and buildings in the authority’s area. It includes Unitary, Structure and Local Plans prepared or ‘saved’ under transitional arrangements.

It also includes the new-look Regional Spatial Strategies and Development Plan Documents prepared under the Planning and Compulsory Purchase Act 2004.

### Habitable room

**6.4** Habitable rooms are all rooms except hallways, bathrooms, WCs, laundry rooms and storage cupboards. Only kitchens of above 13 sq.m. count as habitable rooms. Bedsitting rooms are counted as 1.5 habitable rooms. The maximum size for a single habitable room is counted as 18 sq.m, where the room could be easily subdivided to provide an additional bedroom. Larger rooms are counted as 2 habitable rooms.

### Housing Corporation

**6.5** The Housing Corporation is the agency responsible for managing the funding and regulation of the Government’s affordable housing programme through RSLs.

### Housing Demand

**6.6** The quantity of housing that households are willing and able to buy or rent.

### Housing Need

**6.7** The quantity of housing required for households who are unable to access suitable housing without financial assistance.

### Intermediate Affordable Housing

**6.8** Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out in PPS3. These can include shared equity products (eg HomeBuy), other low cost homes for sale and intermediate rent.



The definition does not exclude homes provided by private sector bodies or provided without grant funding. Where such homes meet the definition above, they may be considered, for planning purposes, as affordable housing. Whereas, those homes that do not meet the definition, for example, 'low cost market' housing, may not be considered, for planning purposes, as affordable housing.

### **Key Workers**

**6.9** The Government's definition of key workers includes those groups eligible for the Housing Corporation funded Key Worker Living programme and others employed within the public sector (ie outside of this programme) identified by the Regional Housing Board for assistance.

### **Local Development Framework**

**6.10** The Local Development Framework (LDF) is a non-statutory term used to describe a folder of documents, which includes all the local planning authority's local development documents. A LDF is comprised of:

- Development Plan Documents (which form part of the statutory development plan)
- Supplementary Planning Documents (SPD)

The local development framework will also comprise of:

- the Statement of Community Involvement
- the Local Development Scheme
- the Annual Monitoring Report
- any Local Development Orders or Simplified Planning Zones that may have been added

### **Market Housing**

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

### **Mortgagee in Possession Clause**

**6.12** Where the Council seeks to impose occupancy controls, lenders of private finance often require the RSL to negotiate for the inclusion of clauses in planning obligations which would enable the lender to dispose of the property on the open market, as a last resort, if the RSL is in financial difficulties. Such clauses are known as mortgagee in possession clauses.

### **Net dwelling density**

**6.13** Net dwelling density is calculated by including only those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas, where these are provided.

### **Nomination Agreement**

**6.14** Nomination agreements between the Council and a RSL are used to ensure that affordable housing is held for local people in affordable housing need. The Council requires a proportion of nomination rights to new affordable housing.

### **Open Market Value (OMV)**

**6.15** The value of land or buildings if sold in the open market.



### **Overcrowded Conditions**

**6.16** 'Overcrowded conditions' has the same meaning as 'overcrowding' in Part X of the Housing Act 1985.

### **Registered Social Landlord (RSL)**

**6.17** RSL refers to a housing landlord registered with the Housing Corporation. RSLs may be charities that are housing associations, industrial and provident societies and not-for-profit companies. As paragraph 27 of DTLR Circular 6/98 emphasises the involvement of a RSL ensures the future occupancy of affordable housing is controlled. Their continuing interest in the property ensures control over subsequent changes of ownership and occupation. This provides two safeguards. First, RSLs are obliged to have publicly available policies and procedures for allocating tenancies which is part of the Housing Corporation 'Performance Standards' for RSLs, reinforced by the Tenants Guarantee. These should be 'open, fair and based on housing need'. Second, should disposal of RSL assets become necessary, it will generally take place under Housing Corporation controls.

### **Section 106 Agreements**

**6.18** An agreement made under Section 106 of the Town and Country Planning Act 1990, between a local planning authority and developers specifying, for instance, that a proportion of a development site be reserved for affordable housing. S106 agreements run with the land and apply to successive owners. The delivery of affordable housing will normally be through a S106 agreement as the provisions governing the provision of affordable housing and its future retention are often too complex to be suitable for inclusion within a condition.

### **Shared Ownership**

**6.19** A form of intermediate housing where an occupier shares ownership of part of house (paying a mortgage) and normally also pays an affordable rent on the remainder to a RSL. Occupiers can sometimes '*staircase*' by acquiring additional tranches, up to full ownership.

### **Social Rented Housing**

**6.20** Rented housing owned and managed by local authorities and registered social landlords, 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 equivalent rental arrangements to the above, as agreed with the local authority or with the Housing Corporation as a condition of grant.

### **Social Housing Grant**

**6.21** Social Housing Grant is paid by the Housing Corporation to RSLs for capital investment in affordable housing.

### **Special Needs/Supported Housing**

**6.22** This encompasses a wide variety of different types of accommodation usually in the ownership of local authorities and RSLs, not all of which are affordable. Such accommodation is provided for people with some special disability or requirement in addition to their need for a home e.g. people who are physically disabled, people with mental health problems or older people. It includes group homes, hostels, cluster flats, shared housing and ordinary flats. The majority of such accommodation will be to rent to those who are unable to compete in the open market e.g. sheltered housing.

### **Total Cost Indicators (TCIs)**

**6.23** This is a system used by the Housing Corporation to determine the normal cost of producing certain types and sizes of dwellings at any location in England, using data on property and construction costs.

