

Dover District Council

# Affordable Housing Supplementary Planning Document (SPD)



Adopted - June 2026

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# 1. Introduction

## Purpose and Status of this Supplementary Planning Document (SPD)

- 1.1 Affordable Housing is required to be delivered as part of new development in accordance with Policy SP5 of the [Dover District Local Plan](#). The SPD provides guidance and advice on how this policy and other associated Local Plan policies should be implemented in practice through the development management process.
- 1.2 The SPD also addresses changes to the National Planning Policy Framework (NPPF) in relation to Affordable Housing requirements and tenures, and how the NPPF will be considered alongside the Local Plan policies as a material consideration in decision-making.
- 1.3 This document sets out a series of Guidance Notes, which should be used by applicants when considering the affordable housing requirements for their scheme:
  - [Guidance Note 1](#) – Calculating 30% of the development
  - [Guidance Note 2](#) – Flexibility of Tenure Mix
  - [Guidance Note 3](#) – Housing Size, Design and Layout
  - [Guidance Note 4](#) – Evidence of Practicality Issues in delivery
  - [Guidance Note 5](#) – Viability Appraisals
  - [Guidance Note 6](#) – When and how to Agree Affordable Housing Details
  - [Guidance Note 7](#) – Self and Custom Build Schemes
  - [Guidance Note 8](#) – Specialist Housing Schemes
  - [Guidance Note 9](#) – Formula for calculating off-site financial contributions
  - [Guidance Note 10](#) – Deferred Contributions
  - [Guidance Note 11](#) – Retaining Shared Ownership in perpetuity
  - [Guidance Note 12](#) – Rural Local Needs Housing
- 1.4 This SPD is a material consideration in the determination of planning applications in the district, and supersedes the following SPDs and guidance documents, which were revoked upon adoption of this SPD:
  - Delivering Affordable Housing through the Planning System (2007)
  - Affordable Housing SPD Addendum (2011)
  - Rural exception policy SPG (2002)

## Consultation on this SPD

- 1.5 Targeted stakeholder engagement with local developers and registered providers took place between 3 December 2025 and 12 January 2026. Following this, full public and stakeholder consultation on the Draft SPD was held between 14th April and 14th May 2026.
- 1.6 Responses to these consultation events have been used to prepare the adopted version of the SPD, and full details can be found in the accompanying Consultation Statement (June 2026).

## 2. Background

### What is Affordable Housing?

- 2.1 Affordable Housing includes homes for sale or rent and is for people whose needs are not met by the private market. It includes Shared Ownership and Discount Market Homes, including First Homes, which support first-time buyers into home ownership.
- 2.2 There are different types of rented Affordable Housing. Social rent is paid to registered providers or local authorities. It is low-cost and set by a government formula. Affordable rent is rent that is set at up to 80% of market rent. More information on how each specific type of Affordable Housing is defined is set out in [Annex 2 of the National Planning Policy Framework](#).

### National Planning Policy

- 2.3 The [National Planning Policy Framework \(NPPF\)](#) sets out the Government's planning policies for England and how these should be applied. The update to the NPPF in December 2024, took place after the adoption of the Dover District Local Plan to 2040 (the Local Plan) in October 2024. The following paragraphs of the NPPF are relevant:
- 2.4 Paragraph 63 requires Local Planning Authorities (LPAs) to establish local housing needs, including those for Affordable Housing (including social rent).
- 2.5 Paragraph 64 makes clear that this should be provided on-site, unless an appropriate financial contribution in lieu can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 2.6 Paragraph 65 sets out that Affordable Housing should not be sought for residential developments that are not major<sup>1</sup>, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).
- 2.7 Paragraph 66 states:  

'Where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other Affordable Housing for rent and Affordable home ownership tenures'.
- 2.8 Footnote 31 of paragraph 66 states that delivery of First Homes can continue where Local Planning Authorities judge that they meet local need.
- 2.9 Paragraph 82 requires Local Planning Authorities to 'support opportunities to bring forward rural exception sites that will provide Affordable Housing to meet identified local needs and consider whether allowing some market housing on these sites would help to facilitate this'.
- 2.10 Planning Practice Guidance (PPG) on Housing needs for different groups<sup>2</sup> provides extra detail and guidance to support national planning policies, including how to assess the need for market and Affordable Housing and how to enable their delivery.

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1 NPPF definition: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

2 [Housing needs of different groups - GOV.UK](#)

## The need for Affordable Housing in Dover District

- 2.11 Delivering more homes, including more Affordable Housing in the places they are needed, is a key Government priority<sup>3</sup>. Lack of Affordable Housing has implications for individuals and society, such as homelessness, social inequality, and health. National Policy requires Councils, as part of plan making, to assess the needs for all homes across their district.
- 2.12 A Strategic Housing Market Assessment (SHMA) was undertaken as background to the Local Plan. This identified a substantial need for Affordable Housing, which was reflected in the Local Plan (adopted in 2024) and Policy SP5 – Affordable Housing. The need for Affordable Housing and the tenure mix contained within the policy was determined through the Strategic Housing Market Assessment (SHMA) which consists of the following documents:
- [HEB01a Strategic Housing Market Assessment Part 1 February 2017](#)
  - [HEB01b Strategic Housing Market Assessment Part 2 February 2017](#)
  - [HEB01c Strategic Housing Market Assessment Partial Update December 2019](#)
  - [HEB01d Modelling the Demand for First Homes November 2021](#)
- 2.13 In addition, at the beginning of 2023, the Council launched a district-wide Housing Needs Survey with the aim of improving our knowledge and understanding of the housing needs of district residents. The results from this survey will be used to help inform what type of properties are needed in local communities and assist in developing housing strategies and policies to help deliver Affordable Housing. The results and key findings of this survey can be found here: [District Housing Needs Survey 2023](#).
- 2.14 The Council is committed to delivering and enabling the development and acquisition of a range of Affordable Housing across the district, either owned and managed by the Council, or by a Registered Provider (RP) (i.e. Housing Associations).
- 2.15 One of the key objectives of the Council's [Corporate Plan 2023-2027](#) is providing at least an average of 200 additional council homes (new build and acquisitions) each year (800 in total over the term of the Corporate Plan). These affordable homes will be for either general needs housing or temporary accommodation purposes.
- 2.16 The Council is also part of Kent Housing Group (KHG) who have produced several documents, including the [Kent and Medway Housing Strategy](#) which was refreshed in 2025 and promotes ambition that every resident of Kent and Medway to have the opportunity to live in a safe, energy efficient, affordable home that supports their health and wellbeing.
- 2.17 In addition to the Council's proactive position on delivery of Affordable Housing<sup>4</sup>, the Council will also support all developers and Registered Providers to implement Policy SP5.

## Current Issues with Delivery of Affordable Housing

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<sup>3</sup> [Affordable housing in England](#)

<sup>4</sup> [New Affordable Housing](#) – DDC website

- 2.18 The Council is aware that there are currently constraints across the southeast, and the country, in relation to Affordable Housing delivery and these have been highlighted as national concerns by the government. One of the main issues for site developers is around finding Registered Providers (RPs) who wish to take on the affordable units within the sites, particularly if they are smaller sites in the rural area.
- 2.19 This is due to several factors including management – small numbers of units in rural locations are more difficult to manage which affects the delivery of Affordable Housing on sites being brought forward by SMEs (small and medium-sized enterprises) in particular. In addition, funding constraints caused by higher interest rates, more limited subsidies and grants from government, rising labour and build costs, including for the repairs and maintenance of existing stock, are a significant issue for both RPs and developers. This leads to viability and delivery issues, which in turn results in requests for reductions in Affordable Housing below the Local Plan policy requirement.
- 2.20 The government published a Policy statement: [a roadmap for Section 106 delivery in England \(January 2026\)](#) to highlight how they consider some of these issues are to be addressed. This roadmap was considered when producing this SPD.

### 3. Applying Local Plan Policy SP5

- 3.1 The Affordable Housing Policy (SP5) is contained in the adopted Local Plan to 2040 (2024) and forms the basis of this SPD. The policy seeks an element of Affordable Housing as part of private housing development on different sizes of developments across the district. There are also different area designations and thresholds which apply. The policy is set out in full below. The following sections set out how the different requirements apply to different locations, size sizes and types of schemes.

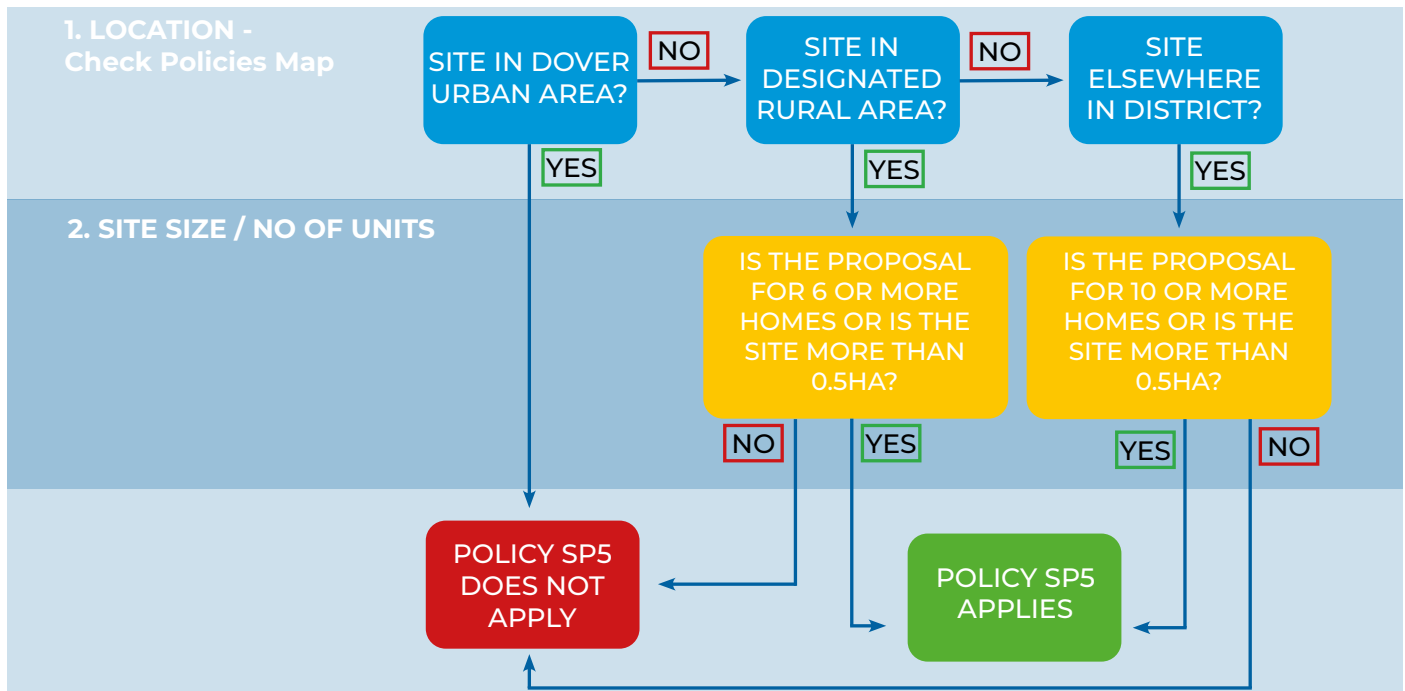
*Figure 1 - Policy SP5 - Affordable Housing (note there is additional supporting and implementation text in the Local Plan)*

#### **SP5-AffordableHousing**

1. The Council requires the provision of affordable housing on schemes of 10 dwellings or more (or sites of 0.5 hectares or more), and in Designated Rural Areas, on schemes of 6 dwellings or more, with provision being not less than 30% of the total housing provided on the site. This is with the exception of the Dover Urban Area, as set out on the policies map, where there will be no requirement for affordable housing to be provided. There maybe circumstances, such as the size or location of the site or the type of housing proposed, that would justify an off-site financial contribution as a more practical approach to meeting the policy requirements than on-site provision.
2. The affordable housing shall be provided with a tenure split of 55% affordable/social rent, 25% First Homes (at 30% discount rate) and 20% other affordable home ownership products. All proposals are expected to meet their full affordable housing provision on-site.
3. Should independently verified viability evidence establish that it is not possible to deliver the affordable housing as required by part 1 of this policy, and the viability position is agreed by the Council, the Council will consider, on a case by case basis, flexibility in the provision of affordable housing, including through the following options:
  - a. Change in the tenure mix required.
  - b. Reductions in the overall proportion of affordable housing.
  - c. Provision of an off-site financial contribution in lieu of affordable housing provision on-site, to secure equivalent provision of affordable housing off site, including 25% to secure First Homes.
  - d. A combination of the above.
  - e. Deferred contributions.
4. If a site comes forward as two or more separate schemes, of which one or more falls below the appropriate threshold, the Council will seek an appropriate level of affordable housing on each part to match in total the provision that would have been required on the site as a whole.

## Quick Guide - Does Policy SP5 apply to my application?

Figure 2 – Does SP5 apply to my application - Quick Guide

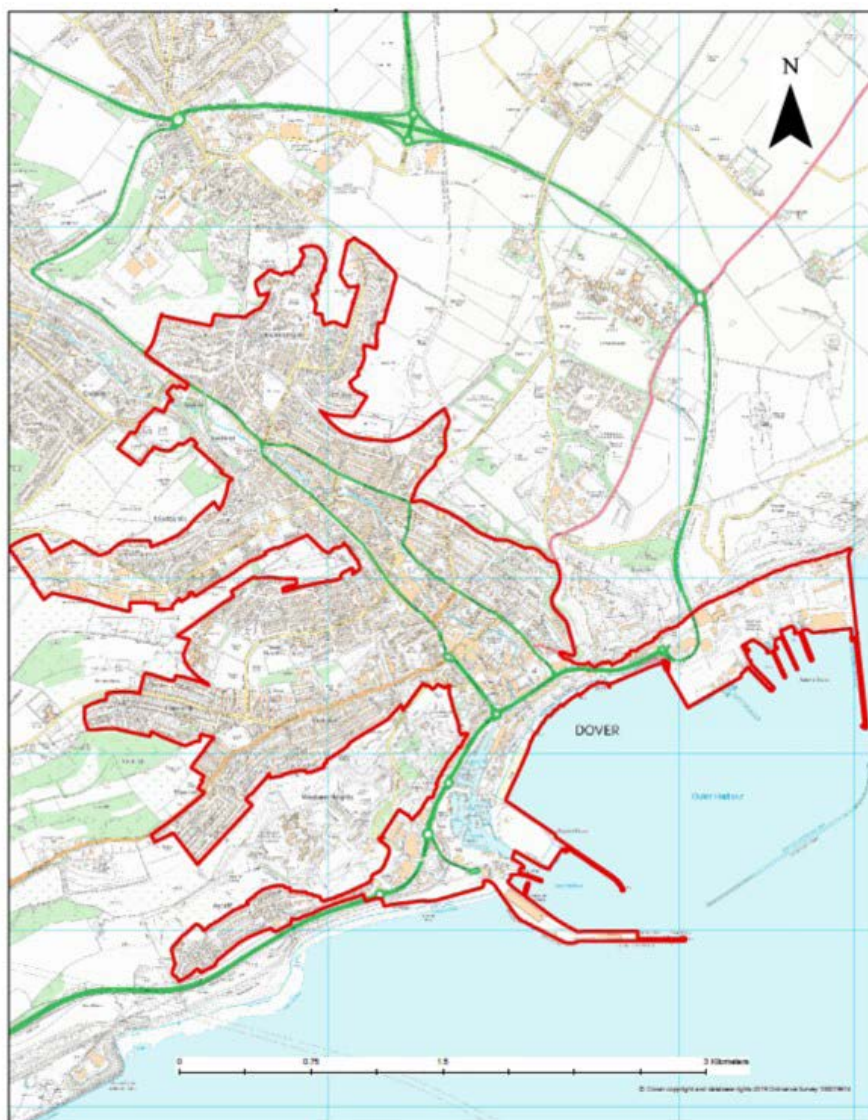


### Where in the district does the policy apply?

- 3.2 The policy applies to the whole district, except for the Dover Urban Area (See Figure 3 below). The Local Plan [policies map](#) can be used to identify whether a site falls within this area and would therefore not be required by the Policy to provide Affordable Housing.
- 3.3 The Dover Urban Area (defined in the map below) has a nil requirement due to the Local Plan evidence identifying that house prices vary across the district resulting in viability challenges with development in this area. There is still a significant need for all types of homes in this area, and the Council itself intends to deliver Affordable Housing through other means, such as direct delivery of Council housing or working with other agencies such as Homes England. This policy position allows developers to seek grant funding to deliver Affordable Housing on sites in the Dover Urban Area.

Figure 3 - Affordable Housing Exemption - Dover Urban Area (image extract from Local Plan)

Figure 3.1 Map of the Dover Urban Area - Affordable Housing Exemption Area (Policy SP5)



## Neighbourhood Plan Areas

- 3.4 There are also adopted and emerging Neighbourhood Plans in the district. Neighbourhood Plans, upon adoption, form part of the Development Plan for the district. See: [Neighbourhood Planning](#)
- 3.5 Applicants should also take account of any relevant Neighbourhood Plan policies when assessing Affordable Housing requirements (and other housing requirements) based on local needs assessments for the area. At the time of writing, the following are relevant:
- Langdon Neighbourhood Plan (2026) – Policy L2
  - Ash Neighbourhood Plan (2021) – Housing needs survey information
  - Worth Neighbourhood Plan (2014) - Community Objective 1

## What size of development does the policy apply to?

- 3.6 The policy requires Affordable Housing to be provided on developments of the following sizes:
- The development is for 10 dwellings or more
  - The development is in a Designated Rural Area (see below) and is for 6 dwellings or more
  - The area of the site is 0.5ha or more

### What if a development is coming forward as separate planning applications that don't meet these thresholds?

- 3.7 If a site comes forward as two or more separate planning applications (for windfall development this will apply where applications are submitted at the same time or within short timeframe), of which one or more falls below the appropriate threshold, the Council will seek an appropriate level on each part to ensure the appropriate level of Affordable Housing is delivered as if it were to come forward as a single site.

## What are the Designated Rural Areas?

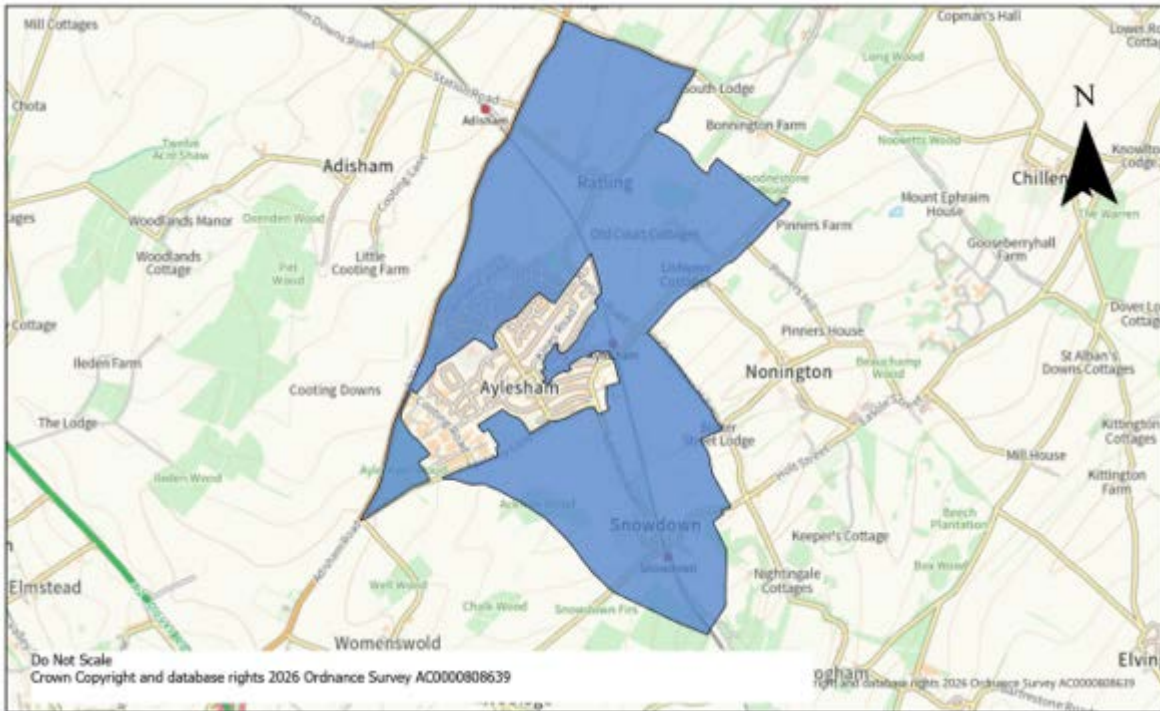
- 3.8 The Designated Rural Areas were originally identified in [The Housing \(Right to Acquire or Enfranchise\) \(Designated Rural Areas in the South East\) Order 1997](#). Schedule 1 set out a list of parish areas and Schedule 2 listed areas which were included but not full parishes labelled as 'by Maps'. Both are listed or shown below for information.
- 3.9 However, those Schedule 2 maps are no longer available online. They are, however, conterminous (having the same boundary) with Designated Protected Areas Maps included in Schedule 12 of the [The Housing \(Right to Enfranchise\) \(Designated Protected Areas\) \(England\) Order 2009. \(Homes England\)](#). Therefore, the Council has used those maps to create a visual boundary of the Schedule 2 Designated Rural Areas, for ease of reference.
- 3.10 These maps are available below, and are also included, along with the Schedule 1 Parishes, on the Designated Rural Areas boundary layer on the [Policies Map](#).

### Designated Rural Areas from Schedule 1: The following whole parishes

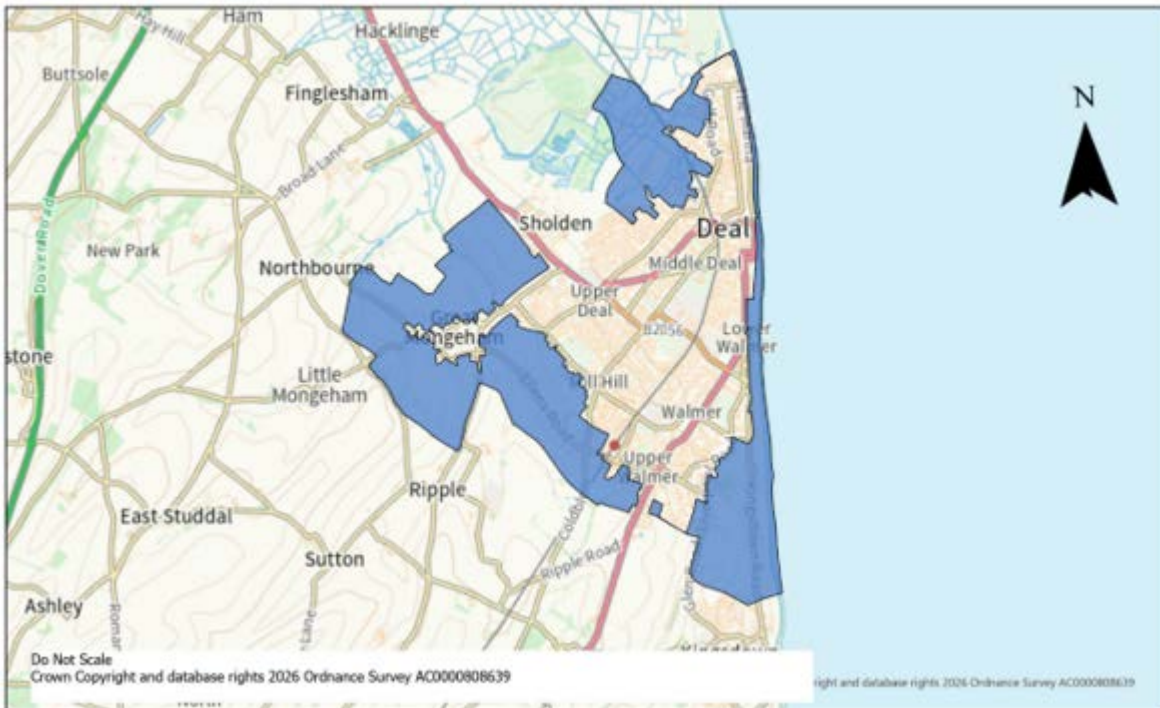
|                    |                            |                         |
|--------------------|----------------------------|-------------------------|
| Alkham             | Langdon                    | St Margaret's-at-Cliffe |
| Ash                | Lydden                     | Staple                  |
| Capel-Le-Ferne     | Nonnington                 | Stourmouth              |
| Denton-with-Wooton | Northbourne                | Sutton                  |
| Eastry             | Preston                    | Temple Ewell            |
| Eythorne           | Ringwould-with-Kingsdown   | Tilmanstone             |
| Goodnestone        | Ripple                     | Wingham                 |
| Guston             | Shepherdswell-with-Coldred | Woodnesborough          |
| Hougham Without    | Sholden                    | Worth                   |

## Designated Rural Areas from Schedule 2: The following Mapped Areas

### Aylesham



### Deal Area<sup>5</sup>

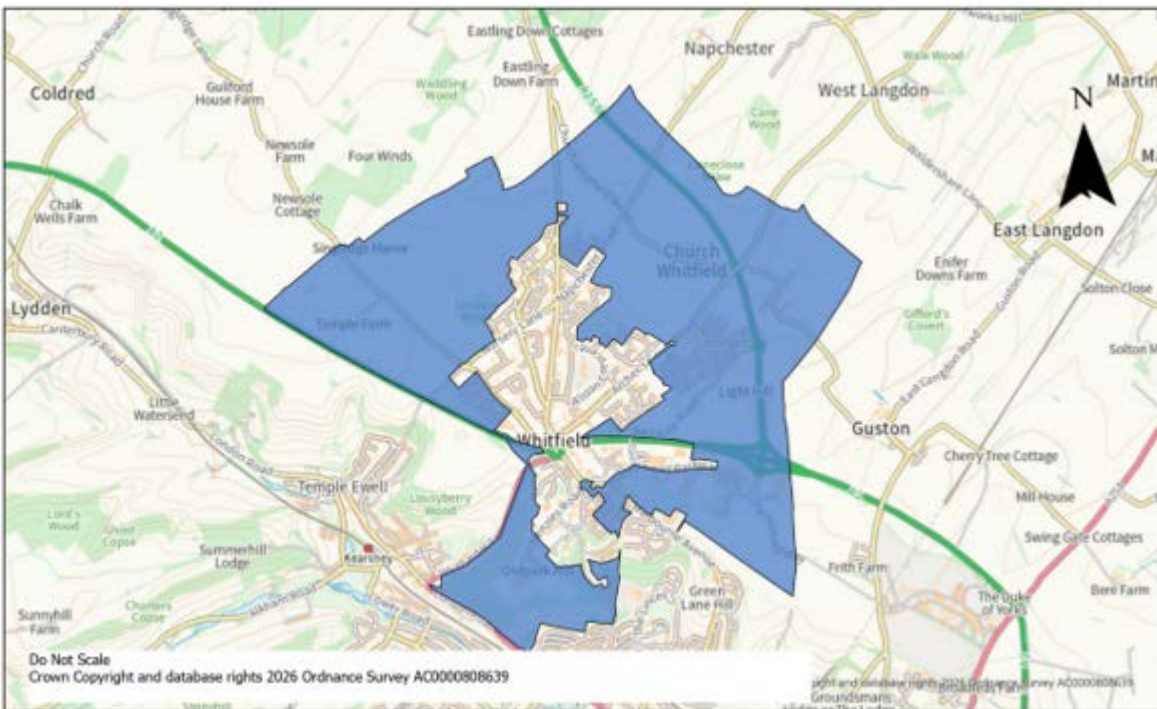


5 Note - The wording from Schedule 2 of the 1997 legislation that describes this map area is 'The unparished area (containing the settlement of Deal) bounded by the parishes of Ringwould with Kingsdown, Ripple, Sutton, Northbourne and Sholden'. However, the area of Deal is now defined as a Town and has a defined boundary, and there are other parishes within this such as Great Mongeham. This does not amend the original definition and the map shown is as set out in the legislation.

## Sandwich



## Whitfield



## How do I calculate the 30% requirement?

3.11 30% is the minimum requirement of Affordable Units for meeting Policy SP5. However, this calculation often leads to a requirement for part of a unit, which is not always practical, especially for smaller schemes. The Guidance note below sets out how the Council will calculate this requirement.

### **Guidance Note 1 – Calculating 30% of the development**

Where the 30% requirement results in a part unit, it will be rounded to the nearest whole number to determine the number of units to be provided.

For example:

- For a scheme of 25 units, 30% results in a need for 7.5 Affordable Housing units. In this case, the requirement is rounded up to provide 8 units.
- For a scheme of 11 units, 30% results in the need for 3.3 Affordable Housing units. In this case the requirement is rounded down to provide 3 units.

## 4. Tenure, Size and Design of Affordable Housing

### Tenure Mix

- 4.1 Policy SP5 requires the following mix of Affordable Housing tenures to be provided:
- 55% affordable/social rent (this is not broken down into each category)
  - 25% First Homes (at 30% discount rate)
  - 20% other Affordable home ownership products (Tenure not defined)
- 4.2 The tenure mix required by adopted Policy SP5 is based on the Strategic Housing Market Assessment (SHMA) and First Homes position statement 2021 (see page 3, 2.12) which remains the most up to date evidence on local housing need.
- 4.3 The update to the NPPF in December 2024 took place after the adoption of the Local Plan. It made changes in relation to Affordable Housing Tenures, which at the time of writing are material considerations. This includes:
- Removed the minimum requirement of 25% First Homes that had been set out in a Written Ministerial Statement in 2021. Instead footnote 31 clarifies that delivery of First Homes can, however, continue where local planning authorities judge that they meet local need.
  - Added a specific requirement to identify needs for social rented homes in policies related to Affordable Housing need (paragraph 64).
  - Amended the definitions set out in the glossary of the NPPF to clarify the different Affordable Housing tenures, including social rent.
- 4.4 The Council's evidence supporting the Local Plan [Modelling the Demand for First Homes](#), shows that the First Homes tenure does meet a need in the district, which is still applicable.
- 4.5 With regards to other Affordable home ownership tenure mixes, the Council's preferred tenure is Shared Ownership. This is based on the SHMA which specifically identified a need for Shared Ownership in the district over the plan period to 2040<sup>6</sup>.
- 4.6 With regards to 'Starter Homes' which were the other affordable home ownership option assessed in the 2019 SHMA, the figures were based on potential demand rather than a requirement, and following the changes to the National Policy (Ministerial Statement<sup>7</sup> and Planning Practice Guidance<sup>8</sup>), introduction of 'First Homes' in 2021, and the update to the NPPF 2024 definition for Affordable Housing, 'Starter Homes' are no longer a product sought as part of an Affordable Housing mix by national policy.
- 4.7 The principle of a flexible approach to tenure mix is already established in Policy SP5, 3a, which allows in circumstances where a viability case has been verified for an alternative tenure mix to be considered.
- 4.8 Taking into account the NPPF and the preference for Shared Ownership based on local evidence, the Council will be applying flexibility to the policy requirements for tenure mix without the need to produce a viability appraisal, to best meet local need and unlock sites which can be delivered with a different tenure mix.

6 see [SHMA Part 2 Update 2019](#) Page 13 and Table 4.4 -Tenure of new accommodation required in Dover District over the next 20 years

7 [Written statements - Written questions, answers and statements - UK Parliament](#)

8 [First Homes - GOV.UK](#)

## Guidance Note 2 – Flexibility of Tenure Mix

- a) The Council will consider the following tenure mixes acceptable without the need for any additional supporting information or viability evidence:
  - 1. 55% Affordable/social rent and 45% Shared Ownership
  - 2. 55% Affordable/social rent, 25% Shared Ownership and 20% other home ownership product
- b) The Council is also likely to support cases where more than 55% affordable/social rent is proposed, subject to the need identified on the housing register at the time.
- c) In cases where less than 55% affordable/social rent is proposed, but the full 30% is provided on site, the Council will consider on a case-by-case basis waiving the need for a viability appraisal\*, taking into account the views of the housing department in relation to how the proposed mix meets local needs. The applicant will need to demonstrate that it has sought to maximise the provision of affordable/social rent and shared ownership tenures.
- d) In cases where less than 30% is provided on-site, the requirement in the policy for a viability appraisal will still be required, as set out in SP5 (See Chapter 7).
- e) In all cases, the agreed tenure mix will be secured in the S106 legal agreement and will include flexibility to enable amendments in accordance with this guidance note.

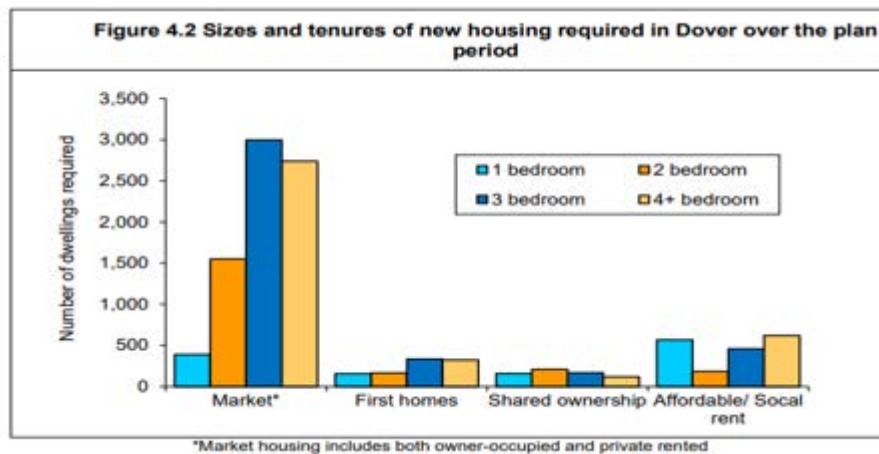
\*This should be dealt with prior to application determination, so it can be considered as part of the planning balance.

## 5. Unit Types and Sizes, Space and Accessibility and site layout

- 5.1 Alongside Policy SP5, Policy H1 of the Local Plan requires that proposals for 10 or more dwellings should demonstrate how the mix of tenure, type and size of housing reflects the latest evidence of housing need and market demand and contributes to meeting the varied needs of different households.
- 5.2 In relation to housing mix of the Affordable Housing, this should be informed by evidence of local need, including through consideration of the SHMA and other local needs assessment. Policy H1 only applies to schemes of 10 or more units, however, to ensure that affordable homes being proposed are meeting a local need and are therefore suitable for the Council or a Registered Provider to take on, sites of under 10 units within DPA areas will also be required to consider local need to inform the affordable mix. It is acknowledged that local need for affordable housing is one of many factors which will inform the mix of housing proposed to be considered.

### Unit size (no. of bedrooms)

- 5.3 In accordance with Policy H1, the types and sizes of Affordable Housing units on qualifying schemes of 10 units or more will be assessed on a case-by-case basis, using evidence of need such as the latest SHMA, local needs housing assessments and local needs lettings policy as a starting point for discussion between applicants and the Council's housing team in early stages of scheme design. The Council will also be requiring schemes of less than 10 units to take this information into account where affordable units are part of the proposed scheme.



### Space and accessibility standards

- 5.4 Policy PM2 of the Local Plan (Quality of Residential Accommodation) requires all new homes in the district to be of high-quality design and meet space and design standards. This includes the Affordable Housing units.
- 5.5 All new homes in the district must be built to the government's [Nationally Described Space Standards](#) and in compliance with building regulation M4(2) - Accessible and Adaptable Dwellings.

- 5.6 In schemes of 20 or more dwellings, in addition to M4(2), 5% of the development must be built in compliance with building regulation M4(3) – Wheelchair Accessible Homes. These units must be provided within the affordable/social rented element of the scheme for which there are nomination rights from the Housing Register. The requirements for these dwellings will be rounded to the nearest whole dwelling amount. (e.g. if the 5% calculation resulted in 2.7 homes, 3 homes would be expected to meet the standard).
- 5.7 A property designed to M4(3) is required to be sized accordingly to allow full access for a wheelchair user and storage areas for the wheelchairs. Kitchens would incorporate larger workspaces and lowered units or be able to accommodate these if deemed an adaptable M4(3) unit. Similarly, in a two-storey dwelling a platform lift should be provided, or if an adaptable M4(3) property, structural provision incorporated to allow one to be installed<sup>9</sup>. As these units are provided in the affordable elements of the scheme, liaison is required with the housing department about needs identified on the housing register. The Council's housing team will work with applicants to determine the most appropriate unit/s in the scheme.

## Layout of sites

- 5.8 Policy PM1 6b of the Local Plan requires that all developments which include Affordable Housing are designed to be tenure-blind in relation to the layout of plots. In practice this means there are no explicit external indicators of tenure type in the design and layout of a development. This principle will minimise the potential stigma attached to any subsidised housing and will ensure new developments contribute to the creation of mixed and inclusive communities. However, blocks of flats are acceptable where a Registered Provider has indicated that it will aid management.
- 5.9 Other factors to be considered in terms of layout and design (which can assist in whether appropriate offers are received from Registered Providers and the Council) are road adoption and management and maintenance fees for the development. Where units are located on unadopted roads or management and maintenance fees are not clear in relation to affordable tenures, this can result in lower offers for units. Layouts should be informed by discussions with the Registered Provider and/or Council's housing team.

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9 This is not an exhaustive list of the M4(3) requirements. See [BR\\_PDF\\_AD\\_M1\\_2015\\_with\\_2016\\_amendments\\_V3.pdf](#) for more information on M4(2) and M4(3) requirements.

## Guidance Note 3 - Housing Size, Design and Layout

- a) Applicants are encouraged to engage in pre-application discussions with both planning and housing teams to inform the Affordable Housing type and size (number of bedrooms) on all sizes of development.
- b) The size, design and layout of a development should take account of the specific needs for Affordable Housing to maximise the potential for delivery of on-site Affordable Housing, taking into account evidence from the SHMA or other surveys. Proposals should provide a mix of different sized (number of bedrooms) properties which meet these needs. Site context, location and market demand will also be taken into account.
- c) The layout and location of the affordable units should take account of future management and maintenance requirements, informed by discussions with the RP and/or Council's housing team.
- d) In accordance with Policy PM2:
  - All homes must be built to Nationally Described Space Standards and to Building Regulation M4(2) - Accessible and Adaptable dwellings (This will be secured by condition).
  - On new build sites of 20 or more homes, 5% must be built to M4(3) – Wheelchair Accessible Homes, and these should be within the affordable rented tenure homes (This will be secured through a S106 legal agreement).
  - The requirements for M4(3) dwellings will be rounded to the nearest whole dwelling amount. Liaison with the housing department is required to determine the appropriate unit type and size which will be informed by identified needs on the housing register.
- e) All mixed tenure development schemes layout and design must be tenure-blind in accordance with Policy PM1 6b. However, blocks of flats are acceptable where a Registered Provider has indicated that it will aid management.

## 6. What if my scheme cannot meet the 30% on-site requirements for practical reasons?

- 6.1 Policy SP5 recognises that there may be circumstances where schemes are not able to achieve the policy requirements for viability reasons, and this is covered in Chapter 7.
- 6.2 There may be practical reasons for not being able to meet the Affordable Housing requirements set out in Policy SP5. For example, where no Registered Provider is willing to offer to purchase the affordable units. This could be due to site size, housing mix or location. Please note the Council housing department will be interested in taking on the Affordable Housing to be provided on site, even on the smaller sites.
- 6.3 In circumstances where the Council and other Registered Providers do not make an offer, the planning department may agree that an off-site financial contribution is a more practical approach to meeting the policy requirements than providing on-site provision.
- 6.4 Where offers are received but the applicant considers the offer/s made to them are too low and not viable, then a viability case should be made (see Guidance Note 5) and Guidance Note 4 is no longer applicable.
- 6.5 Other considerations in relation to mix proposed may also resolve practicality issues, including for example the provision of low-cost home ownership products (such as Discounted Market Homes) on site instead of social/affordable rented and/or shared ownership tenures.
- 6.6 Evidence must be submitted in relation to practicality issues, which should include responses from Registered Providers and the Council (housing team) that they are unable to offer on the proposed units. The requirement to contact 5 RPs is considered a sensible and reasonable amount, based on knowledge of RPs operating in the district. The housing team can share details of Registered Providers that can be contacted. Evidence may not be required to be submitted where the Council agree that the practicality issue cannot be resolved due for example, the development type (such as flats).

## Guidance Note 4 – Evidence of Practicality Issues in delivery

- a) Where practicality is the reason for not meeting Policy SP5 requirements, applicants are encouraged to engage in pre-application discussions with both planning and housing teams to consider alternative options and agree the approach to addressing any site-specific practicality issues.
- b) Evidence should be submitted with the application to support the practicality reasons given. This should include evidence in relation to the marketing of the units with a minimum of 5 Registered Providers who are known to be or who have in the past operated within the district (including the Council)\*.
- c) Responses demonstrating that they are not willing to take on the proposed units and their reasons, or evidence of no response must be provided\*.
- d) If evidenced, the Council may agree that an off-site financial contribution or an alternative tenure, such as Discount Market Sales, is a more practical approach to meeting the policy requirements than on-site provision.

\*The Council may reduce/remove these requirements in circumstances where the Council agrees that the practicality issues cannot be resolved due to the development type (for example a flatted development)

NB - Applicants should also take into account Guidance Notes 2 and 3 in relation to housing tenure and mix, to ensure that the type and size of property proposed is not the reason for there being no interest from Registered Providers (RP).

Where the applicant considers an offer from an RP not viable, then a viability case should be made, and Guidance Note 4 no longer applies (see Section 7 of this SPD in relation to viability).

## 7. Viability Issues and how to address them

### When do I need to submit a Viability Appraisal?

- 7.1 Policy SP5 recognises that there may be circumstances where schemes are not able to achieve the policy requirements for viability reasons.
- 7.2 Policy SP5 sets out that if a viability case is evidenced the Council will, on a case-by-case basis, provide flexibility in the provision of Affordable Housing through the options (in order), detailed within the policy which are:
- Tenure Mix Changes<sup>10</sup>
  - Reduction in the overall proportion of Affordable Housing
  - Provision of an off-site financial contribution
  - A combination of the above.
- 7.3 The Council acknowledges that there have been increases to build costs in recent years, which are higher than assumed in the Council's viability evidence which supported the Local Plan. Whilst sales values have also increased, this has not been as much as build costs, and it is therefore accepted that viability has become more challenging.
- 7.4 Affordable Housing values set out in the Local Plan Viability work were identified as typical values to inform the high-level nature of the Whole Plan Viability Study. They are not a minimum value which needs to be reached for a scheme to be viable. There have been increases in open market sales values, but not the equivalent in affordable housing values due to nationally set rental values. It is therefore unlikely that Affordable Housing values will reach the percentage of open market value set out in the Local Plan viability work<sup>11</sup>.
- 7.5 The Council does not consider this to automatically make schemes unviable, and evidence must be submitted for the development (as a whole) in an appraisal, if a viability case is to be made.

### Who should prepare the Viability Appraisal and who will assess it?

- 7.6 Policy SP5 requires independently verified viability evidence. There are three options, set out below, that the Council will accept to verify viability evidence. The option will need to be agreed with the Council prior to the work being commenced. Appendix 1 sets out a protocol for how to work with the Council to commission viability work.
- Option 1 – the applicant commissions their own viability appraisal following the methodology of the PPG and as set out in Guidance Note 5 (below). This Council then commissions an independent assessor to review the submitted viability appraisal. The cost of the independent review is covered by the applicant.
  - Option 2 - The Council and the applicant jointly commission a viability consultant to carry out a viability appraisal of the development. The costs of this will be covered by the applicant
  - Option 3 - The applicant may choose to provide an independent economic viability appraisal undertaken by the District Valuers, in which case the Council will not seek to independently verify the conclusions of their report.

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10 Guidance Note 2 identifies circumstances where a change in tenure mix may not require a viability appraisal.

11 See General Evidence Base (GEB08) [Submission Documents](#)

## What should be included in a Viability Appraisal?

- 7.7 The [PPG for Viability](#) sets out a number of parameters for what should be included in viability appraisals. In addition to this Policy SP5 requires other factors to be looked at to maximise the levels of Affordable Housing that can be provided either on or off site. For example, changes in tenure mix through reducing the level of rented tenure and replacing with Shared Ownership<sup>12</sup> can significantly improve viability. Guidance Note 2 sets out flexibility for tenure mix changes and providing this information as part of the viability appraisal will reduce delays in processing applications due to requests for further information.
- 7.8 To provide a proportionate approach relating to the scale of development, for sites of less than 10 units, the Council will take a flexible approach in relation to the requirement to consider options a) to d) in Policy SP5 part 3 and will not require the options to be considered within the viability appraisal.

## How will the conclusions inform the decision?

- 7.9 The viability appraisal should clearly identify what the cost of providing the Affordable Housing and the level which can be provided whilst making the development viable. This will clearly inform the amount and tenure of affordable housing that can be provided on-site, and/or the value of the off-site contribution.
- 7.10 In some cases where the viability case is marginal, reducing other developer contributions may have the effect of making the scheme viable in terms of Affordable Housing. Policy SP11 of the Local Plan, which secures other infrastructure obligations, sets out the same requirement in terms of viability evidence being provided and potential reductions in contributions or deferred contributions.
- 7.11 If, having been through one of the options above, there remains dispute between the Council and the applicant regarding the assumptions or outputs of the viability appraisal, it will be up to the decision maker to determine how to proceed with the application.

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<sup>12</sup> Consultation will be required with the Council's housing team to ensure there is likely to be sufficient demand for the Shared Ownership units in the local housing market.

## Guidance Note 5 - Viability Appraisals

- a) A Viability Appraisal review shall be carried out in accordance with one of the 3 options set out at paragraph 7.6. The option to be used should be agreed with the Council prior to the work being commenced.
- b) The Viability Appraisal should include the following:
  - 1. A compare and contrast assessment against the Local Plan Viability Report to show where the information has changed. This must be for all and not just individual assumptions. Site-specific circumstances that explain the differences should be clearly set out;
  - 2. Testing of different tenure mixes to explore if a tenure change would make 30% on-site viable (Guidance Note 2 of this SPD should be the starting point for considering tenure mix changes);
  - 3. Tenure mix assessments (taking into account Guidance Note 2) should be presented in the appraisal to show a range has been tested and to highlight what tenure mix would provide the highest percentage of on-site Affordable Housing (to show if any options are close to 30%). Consultation with the Council's housing department is required to ensure that the tenure mix being tested will meet a local need, even it not fully policy compliant;
  - 4. Calculation of the off-site financial contribution, based on the approach set out in this SPD;
  - 5. Where there is proposed to be an overall reduction in the proportion of Affordable Housing to be delivered on site, consideration should be given to whether an off-site contribution should be provided in lieu of the reduced provision.
- c) The requirements for viability appraisals to consider SP5 (3) options a) to d) of Policy SP5 will not apply to sites of less than 10 units.
- d) In some cases where the viability case is marginal, reducing other developer contributions may be considered.
- e) The viability appraisal will be published on the planning file.

## 8. When and how to agree Affordable Housing Details

- 8.1 The detailed proposals for Affordable Housing provision, particularly on Full and Reserved Matters applications, should be known at the time the application is taken to planning committee, or the time of the officer decision, in order that the decision is based on a clear assessment of Policy SP5 and the details are secured through a S106 legal agreement.
- 8.2 Currently, this information is not always available at this stage which causes delay in the decision-making process, when the legal agreement is being finalised or following decision when the legal agreement obligations are being discharged. It should also be clear at the decision/planning committee stage whether there is a potential viability concern that might lead to the agreed Affordable Housing not being provided.
- 8.3 In many cases, it is beneficial to all parties if the details are identified earlier than decision making stage, through pre-application discussions, which could speed up the decision-making process. However, it is understood that in some circumstances this detail may not be known at pre-application, or even at decision stage, for example with an Outline application, where the applicant is not the developer, or where no Registered Provider has been secured.
- 8.4 For Full applications and Reserved Matters, tenure split should be agreed at application stage, through the submission of a schedule and site plan. This enables all issues regarding viability to be addressed as part of the application and the proposed tenure split, and assessment as to the proposals compliance with Policy SP5, to be balanced in the planning decision.
- 8.5 For Outline applications where layout and scale are reserved, the full details of the Affordable Housing to be provided on site can be determined at the Reserved Matters stage. At the Outline stage an Affordable Housing Statement should be submitted with the application outlining how the Affordable Housing requirements are intended to be met, including the potential tenure split, which will be secured through the S106 legal agreement and/or condition.
- 8.6 The Council understands that with Outline applications, the detail of the proposal is often not known, and that for Full or Reserved Matters applications there is potentially a need for flexibility post decision and therefore an element of flexibility will be provided within the S106 legal agreement to enable changes in tenure mix to be agreed, without the need for a viability appraisal and/or Deed of Variation. Provision will be included in the S106 legal agreement to enable this, subject to the changes being in accordance with Guidance Note 2.
- 8.7 Should changes need to be made post decision, this should normally be done through a Section 73 application to amend the approved plans (affordable housing tenure plan), and if necessary, a deed of variation to the S106 legal agreement.

## Guidance Note 6 – When and how to agree Affordable Housing details

- a) Applicants are encouraged to engage in pre-application discussions with the Council to inform the Affordable Housing provision on site and identify any constraints to its delivery.
- b) For Full and Reserved Matters applications details must be provided of the Affordable Housing proposed on site with the application, including tenure mix and bedroom sizes. This should be included in a schedule and site plan, which will be secured by condition and through the S106 legal agreement\*.
- c) Outline applications should be accompanied by an Affordable Housing Statement outlining how the Affordable Housing requirements are intended to be met, including consideration of the potential tenure mix. Conditions and/or the S106 legal agreement will secure the future provision of the affordable housing and require full details of the affordable housing, including tenure mix and bedroom sizes, to be submitted as part of Reserved Matters, as per criterion.
- d) Where there are known viability or practicality issues that would result in the development being unable to provide policy compliant Affordable Housing, it is expected that this will be considered and dealt with at the application stage and not post decision.
- e) If a viability case is made within 2 years of a decision to alter the Affordable Housing requirements, the applicant must provide detailed evidence of what has changed and why this was not known at the time of the application. If this cannot be provided the Council is unlikely to be willing to enter discussions on a deed of variation to the S106 legal agreement.
- f) The Council will include a mechanism within S106 legal agreements that tenure mix can be changed in accordance with supported tenures in Guidance Note 2, subject to agreement with the Council, without the need for a viability appraisal, if the scheme is still meeting 30% on-site requirement.

\*Where it is not possible to provide this information with the application, the applicant will be required to explain why the information is not available and confirm that potential viability of the Affordable Housing and the likely tenure mix has been considered.

## 9. Types of Schemes where SP5 may apply differently

### Solely/Majority Affordable Housing developments

- 9.1 The Council often works with Registered Providers and [Homes England](#) to deliver sites of solely (or majority) Affordable Housing units to meet the district's needs. This usually consists of low cost rented accommodation, shared ownership, or low-cost home ownership accommodation.
- 9.2 Registered Providers may be charities, not-for-profit bodies or for-profit providers of social housing. In some cases, schemes for development may come forward which do not include any, or very limited market housing as part of the mix. This may include schemes which include a small amount of market properties to make the scheme viable. In these circumstances, the Council would not normally secure the Affordable units through a S106 legal agreement as this will enable Homes England funding to be secured. The Affordable Housing will instead be secured by condition, including the agreed tenure mix.

### Self-Build and Custom Housebuilding Schemes

- 9.3 Policy H5 in the Local Plan supports sites for self-build and custom housebuilding on sites where they comply with other policies in the Local Plan. For schemes which meet the thresholds of SP5 which include all self/custom build or a mix of market homes and self-build/custom build, the total units/plots on the site will be used to calculate the scheme requirements for Affordable Housing.
- 9.4 Serviced plots for self and custom build homes as part of a mixed scheme cannot be accepted as a contribution towards meeting Affordable Housing needs.

### Guidance Note 7 – Self and Custom Build Schemes

- a) For housing schemes which meet the thresholds of SP5 and include a mix of market homes and self-build/custom build, the total units/plots on the site will be used to calculate the scheme requirements for Affordable Housing.
- b) Serviced plots for self and custom build homes cannot be accepted as a contribution towards meeting Affordable Housing needs.

### Specialist Housing Schemes

- 9.5 There are several forms of specialist housing schemes including age-restricted or older persons housing developments. Depending on the specific proposal, they may be exempt from meeting Affordable Housing requirements in accordance with SP5, but as set out in paragraph 3.88 of the Local Plan, where they are classified as independent housing units, the policy requirements will be applied
- 9.6 The Council acknowledges that for stand-alone specialist housing schemes it may not be practical to provide affordable housing on site due to the specific detail of scheme and constraints around site size and design. In these cases, the Council will accept an off-site financial contribution, without the need to submit a viability appraisal.

## Guidance Note 8 - Specialist Housing Schemes

- a) All schemes which fall under use class C3 (dwellinghouses) are required to provide Affordable Housing in accordance with SP5, regardless of whether they are specialist housing schemes. This may include age-restricted dwellings, or older persons schemes with some element of care/communal facilities provided but which are otherwise independent housing units. This position is supported by case law<sup>13</sup>.
- b) The Council acknowledges it is likely that for these types of housing schemes it may be more practical to deliver the Affordable Housing through an off-site financial contribution, rather than on-site delivery. In these circumstances, a viability appraisal is not required to justify this approach.
- c) It is advisable to seek advice prior to application submission to establish how this would apply to your scheme.

## Other Housing types

- 9.7 Other forms of residential development that are capable of being occupied as normal self-contained residential dwellings will be expected to satisfy the requirements of Policy SP5. Where separate ownership of such homes is not practical, a financial contribution towards off-site Affordable Housing may be more appropriate.
- 9.8 The National Planning Policy Framework states that Affordable Housing on [build to rent schemes](#) should be provided as affordable private rent by default, a class of Affordable Housing specifically designed for build to rent. Affordable private rent and private market rent units within a development should be managed collectively by a single build to rent landlord.
- 9.9 It is advisable to seek advice prior to application submission to establish how this would apply to your scheme.

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13 [Rectory Homes v SSHCLG](#)

## 10. Calculating Off-site Contributions

- 10.1 As set out in paragraph 3.93 of the Local Plan, the previous SPD approach to calculating contributions was to be reviewed as part of this updated SPD.
- 10.2 If it has been agreed that off-site financial contributions may be paid to the Council in lieu of on-site delivery, Guidance Note 9 sets out how the Council expect the financial contribution to be calculated.
- 10.3 Policy SP5 states that the off-site contribution must be sufficient to enable an equivalent provision of affordable housing to be provided off-site. The Council has reviewed whether 5% Gross Development Value (GDV)<sup>14</sup> is sufficient to achieve this by assessing the level of subsidy that has been required to purchase units through the private market<sup>15</sup>, to provide as Affordable Housing. The values presented in the examples below are derived from recent actual transactions; however, they have been adjusted to preserve confidentiality.

### **Subsidy required to purchase private market units to provide as affordable housing**

#### **Worked example 1 :**

Total number of units: 20

Open Market Value (OMV): £5,308,642

Subsidy required for 6 affordable units: £596,667

Subsidy as a % of OMV : 11%

#### **Worked example 2 ;**

Total number of units: 24

Open Market Value (OMV): £8,900,000

<sup>14</sup> As set out in the [2011 SPD](#)

<sup>15</sup> This is likely to cost less than the Council or RP building themselves

10.4 The likely cost for an applicant / developer to provide Affordable Housing on-site has also been considered, as set out in the worked examples below.

### Cost to developer to provide Affordable Housing on-site

#### Assumptions:

- 30% affordable housing provided on site
- Tenure Mix - 55% Rented; 45% Shared Ownership
- Rented Value – 50% Open Market Value (OMV)\*
- Shared Ownership Value – 85% OMV\*
- Blended rate of 64%
- Costs 10.8% Gross Development Value (GDV)

\*Assumptions based on recent district examples

#### Worked example 1

A development of 10 units provides 3 affordable homes (2 rented and 1 shared ownership).

The 2 rented units achieve 50% OMV. The 1 shared ownership achieves 85% OMV. The 7 private market units achieve 100% OMV.

This results in a blended rate of **88.5%** OMV  $\frac{(2 \times 50) + (1 \times 85) + (7 \times 100)}{10}$

The cost to the developer in providing the affordable housing on-site is **11.5% OMV**.

#### Worked example 2

A development of 24 units provides 7 affordable homes (4 rented and 3 shared ownership).

The 4 rented units achieve 50% OMV. The 3 shared ownership units achieve 85% OMV. The 17 private units achieve 100% OMV.

This results in a blended rate of **89.79%** OMV  $\frac{(4 \times 50) + (3 \times 85) + (17 \times 100)}{24}$

The cost to the developer in providing the affordable housing on-site is **10.21% OMV**

#### Worked example 3

A development of 36 units provides 11 affordable homes (6 rented and 5 shared ownership).

The 6 rented units achieve 50% OMV. The 5 shared ownership units achieve 85% OMV. The 25 private units achieve 100% OMV.

This results in a blended rate of **89.58%** OMV.  $\frac{(6 \times 50) + (5 \times 85) + (25 \times 100)}{36}$

The cost to the developer in providing the affordable housing on-site is **10.42% OMV**

- 10.5 The Council therefore considers that the value of the off-site financial contribution, in cases where no affordable housing is being provided on-site, can be calculated as 10% of the total Gross Development Value (GDV).
- 10.6 The Council acknowledges that the appropriate percentage of GDV may vary dependent upon the specific details of the development and its location. The Council will therefore also consider site specific evidence to calculate the financial contribution. This will be based on the subsidy required to deliver the off-site affordable housing, calculated with reference to a range of assumptions, including but not limited to interest rates, Local Housing Allowance (LHA), property market values, and associated management fees and service charges.
- 10.7 Calculations should be based on an appropriate mix of units (size, type and tenure) as required by Local Plan Policies SP5 and H1, and Guidance Notes 2 and 3 of this SPD.

### **Guidance Note 9 – Formula for Calculating off-site financial contributions**

- a) Where it has been agreed that no affordable housing is to be provided on site, the off-site affordable housing financial contribution should be calculated as 10% of the Gross Development Value (GDV). With the GDV being calculated as the total Open Market Value (OMV) of all units on the development.
- b) Alternatively, the Council will consider site specific evidence, to determine the off-site contribution by calculating the level of subsidy required to deliver the affordable housing off-site. This approach will also be applicable where some affordable housing has been provided on site.
- c) The financial contribution should be calculated based upon the final agreed scheme for the site, ensuring the mix and size of housing takes into account the requirements of Local Plan Policy H1 and Guidance Notes 2 and 3 of this SPD.
- d) To ensure that reasonable figures are presented, they will be reviewed by the Council using comparable evidence, and any data provided within the relevant viability appraisal, if applicable.

## 11. Deferred contributions

11.1 Planning Practice Guidance – Viability, sets out how viability should be reviewed during the lifetime of a project:

‘Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles.

Policy compliant means development which fully complies with up-to-date plan policies. A decision maker can give appropriate weight to emerging policies. Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time.

As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local planning authorities’ ability to seek compliance with relevant policies over the lifetime of the project. They should not be used to avoid policy compliance or reduce agreed contributions.’

11.2 Policies SP5 and SP11 of the Local Plan set out the Council’s intention for seeking deferred contributions in circumstances where a viability case is accepted by the Council and the provision of no, or a reduced quantum of Affordable Housing is agreed by the Council. This is often known as a ‘clawback’ or a ‘review mechanism’ and requires re-assessing the viability of the development after it is complete or, on larger sites, at stages through its build out, to see if the viability of the development has changed since the consent. If it is shown from the re-assessment that assumptions have changed and has resulted in improved viability, financial contributions could then be paid to the Council to fund the delivery of off-site Affordable Housing.

11.3 Deferring contributions is the final option of Policy SP5 3e. This guidance note expands on the deferred contributions mechanism established in the Local Plan policies. This review mechanism will, if relevant, be written into the S106 legal agreement so that should developments become sufficiently viable such that they could support contributions; a level of financial contributions could be secured.

11.4 This mechanism will require the submission of a report to the Council which includes details of verified revenue and costs (excluding the cost of land purchase) and an assessment of the uplift compared to the viability assessment that was undertaken at the application stage. Where changes in revenue and costs result in increased profit. the developer will be required to provide this to the Council as an off-site financial contribution towards Affordable Housing.

11.5 The timings of these mechanisms will be agreed on a case-by-case basis and secured in the S106 legal agreement, but in most cases, it will be required upon sale of the last property built by the developer, unless it is a major development where individual phase by phase monitoring is more appropriate.

11.6 This review mechanism will not be applicable to minor development schemes or sites that are complete within 2 years of the grant of consent as it is unlikely that schemes of this size or developed quickly would generate sufficient increase in sales values to provide any meaningful off-site contribution.

## Guidance Note 10 - Deferred Contributions

- a) For major development proposals, where viability has led to the Council agreeing a reduction or removal of Affordable Housing policy requirements, a review mechanism will be included in the Section 106 legal agreement to enable uplift in sales values to be clawed back as an off-site financial contribution.
- b) This mechanism will require the submission of a report to the Council within 3 months of the sale of the final unit built<sup>16</sup> on site (or phase). The report should include details of verified revenue and costs, and an assessment of the uplift compared to the viability assessment that was undertaken at the application stage. If required, the applicant must pay the costs of the Council for independent assessment of the report.
- c) Where uplift in profit has been achieved the developer will be required to provide this to the Council as an off-site financial contribution towards Affordable Housing.\*
- d) There will be an exemption to the deferred contributions review and subsequent financial contribution, should the development be completed and sold within 2 years of the grant of planning consent.

\*The deferred contribution will be capped at the level of an appropriate off-site contribution, as set out in Guidance Note 9, except in circumstances where other development contributions were deferred, in which case it will be capped at the level of fully policy compliant contributions.

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<sup>16</sup> This is the final unit built on site, and not the final unit of the planning consent, to ensure developments are not partially completed and avoid this requirement.

## 12. How will S106 financial contributions be spent?

- 12.1 To find out how the Council uses S106 financial contributions (planning obligations) to deliver Affordable Housing in the district, please visit our [Delivering Affordable Housing webpage](#).
- 12.2 You can also view all the financial details of monies held, spent and secured for Affordable Housing within the online [Infrastructure Funding Statement \(IFS\)](#). This dashboard has a filter to view all Affordable Housing contributions as one category and allows searching by planning application reference, parish, or financial year.

## 13. Retaining Affordable Housing in Perpetuity

- 13.1 Retaining Affordable Housing in perpetuity for future generations in a local area is essential. First Homes and Discount Market Homes are required to remain that tenure in perpetuity. However, there are some types of Affordable home ownership tenure where there is an option for an owner/part owner to purchase the property in full. Once this happens, the home can then be sold as a general market home. This is particularly common in 'Shared Ownership' properties where up to 75% is typically bought initially, with the option to 'staircase' up to 100% ownership over a certain time period.
- 13.2 More information on [Shared Ownership can be found here: Shared ownership homes: buying, improving and selling: How shared ownership works - GOV.UK](#) and in the council's housing department policy here: [Shared-Ownership-Policy-2024.pdf](#).
- 13.3 Regulations are in place to ensure that rural Affordable Housing – specifically Shared Ownership homes grant funded by Homes England - remains in the ownership of local people. Where that is the case, providers are required to offer grant-funded Shared Ownership homes with a lease that contains one of the following provisions:
- to restrict staircasing to no more than 80% or;
  - where the leaseholder is permitted to acquire more than 80% up to full ownership, then there is an obligation on the landlord (or a designated alternative landlord) specified in the lease that commits them to repurchase the home when the leaseholder wishes to sell
- 13.4 To remove these requirements the owner (Registered Provider) has to put in a request to Homes England to have the provision removed. This is known as a DPA Waiver. DPA waivers do not:
- have any impact on other tenures, including equity loans or market sale.
  - change the exemption from Right to Acquire for rented homes where that applies.
  - apply to rural exception sites or other section 106 agreements.
  - Conditions imposed by the Council on section 106 units, cannot be waived by Homes England.

More information can be found here:

- The Homes England Designated Protected Areas (DPA) explanatory note contains more information about the relevant legislation related to DPAs.
- [Designated Protected Areas - GOV.UK](#)
- For the list of DPAs defined by parishes or maps please see the schedules by standard region within the relevant legislation at [The Housing \(Right to Enfranchise\) \(Designated Protected Areas\) \(England\) Order 2009](#).
- For the DPAs defined by maps see <https://digitalservices.homesengland.org.uk/designated-protected-areas/>

Note – the DPA areas defined are the same boundaries as Designated Rural Areas detailed within Part 2 of this SPD

- 13.5 The Council will seek to apply the same provisions on non-grant funded Shared Ownership properties in Designated Protection Areas as the Homes England grant funded units to retain all Shared Ownership properties in those areas in perpetuity.

## **Guidance Note 11 – Retaining Shared Ownership in Perpetuity**

- a) The Council will seek to apply the same provisions on non-grant funded Shared Ownership properties in Designated Protection Areas as the Homes England grant funded units which shall be determined at the application stage. If agreed, it will be secured in a S106 legal agreement.
- b) A Deed of variation, following the same process as the Homes England DPA waiver, will need to be submitted to the Council if the RP wish the S106 provisions to be removed at a later date.
- c) The Council will assess the latest evidence of need and supply of Shared Ownership in that local area to determine whether this should be applied.

## 14. Rural Local Needs Housing ('Exception Sites')

### Local Policy

- 14.1 Policy SP4 (Residential windfall development) of the Local Plan sets out the council's policy for windfall (not allocated) development in the district. As part of the evidence base for the Local Plan, the Council undertook a review of its Settlement Hierarchy and of settlement confines (boundaries).
- 14.2 Policy SP4 sets out how, in principle, new development is permitted adjoining the confines of some of the district's larger and more sustainable settlements, including in the rural areas. However, there are a number of less sustainable settlements in the rural areas of the district where new residential development is only acceptable within the settlement confines.
- 14.3 Due to the lower levels of housing supply in rural areas, affordability has historically been a particular issue in rural parishes, resulting in people with employment or family connections to a particular village or area being unable to find housing in that location that is affordable to them.
- 14.4 In order to address such specific housing need, the development of low-cost, local needs housing in rural areas on land that would not ordinarily be acceptable for housing development (when considered against Policy SP4), and therefore where planning permission would not otherwise be granted, Policy H2 – Rural Local Needs Housing (below) is supportive of proposals for local needs housing in the district's rural area beyond a settlement's identified confines.

## H2-Rural Local Needs Housing

Proposals for local needs housing in the rural area beyond a settlement's identified confines will be supported subject to all of the following criteria being met:

- a. The local need is clearly evidenced in a comprehensive local needs Housing Survey of the parish, and adjacent parishes where appropriate, prepared by or in consultation with the Parish Council and with the District Council's Housing Department in the first instance;
- b. The development is compatible with the layout, density, fabric and appearance of the existing settlement;
- c. In the case of settlements in, or surrounded by, the Kent Downs AONB or Heritage Coasts, that the proposal complies in the first instance with the primary requirement of conserving and enhancing landscape and scenic beauty, and where this is demonstrated, that the scale and extent of development is limited, sensitively located and designed to avoid or minimise adverse impacts on these designated landscapes;
- d. It would conserve and enhance landscape character and biodiversity;
- e. Where the site adjoins open countryside, appropriately designed landscape buffers, including soft boundary treatment of native species and hedging already present in the immediate vicinity of the site, are included;
- f. It would preserve or enhance any heritage assets within its setting;
- g. It would not have an adverse impact on the living conditions of existing adjoining residents;
- h. It is demonstrated that traffic generated from the development can be safely accommodated on the local road network;
- i. The development is of a suitable scale, type and tenure, taking account of the affordable housing already planned in the parish or near by area, and will be available at an appropriate cost to meet the identified need; and
- j. Initial and subsequent occupation is controlled through legal agreements to ensure that the accommodation remains available to meet the purposes for which it was permitted, in perpetuity.

Proposals which promote market housing as a means of enabling local housing need will be supported where robust evidence is submitted to show why it is required to facilitate the delivery of the scheme in terms of viability, and the market housing mix and house types are appropriate to the site location and scale of overall development, having regard to the latest evidence of housing need.

### National Policy

- 14.5 This approach to rural exception sites is supported at national policy level in the NPPF<sup>17</sup> and defined in the NPPF Annex 2 as: 'Rural exception sites: Small sites used for Affordable Housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding'.

<sup>17</sup> NPPF 2024 paragraph 76

- 14.6 The NPPF<sup>18</sup> sets out that Community-led development exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement, unless specific provision to exceed these limits is made in the development plan. Policy H2 does not exceed those limits.

## Design and Management of local needs homes

- 14.7 Aside from the requirements which are specific to local needs housing, Local Plan Policy H2 requires development to comply with criteria which might reasonably be expected on any site such as being of a suitable scale, type and tenure, safely accommodating traffic, being compatible with the layout, density, fabric and appearance of the existing settlement, conserving landscape character and biodiversity and preserving or enhancing any heritage assets within the site's setting.
- 14.8 This housing must remain 'Affordable' in perpetuity i.e. below the prevailing market value, and be available for either sale or rent, to meet an identified local need. To achieve this, occupiers should be prevented from being able to own Local Needs dwellings outright. Such schemes are therefore usually managed by a Registered Social Landlord.

## Evidence of local needs

- 14.9 Local Needs Housing being acceptable as an exception to Policy SP4 is subject to the need being evidenced in a Local Needs Housing Survey, prepared by or in consultation with the local town/parish council and with the Council's Housing Department as set out in Policy H2a).
- 14.10 The Kent Housing Group (which DDC is a member of) has useful information of rural exception sites and principles and guidance for housing needs surveys. See: [Local Needs Housing - Kent Housing Group](#)

### *Cross Subsidy from Market Housing*

- 14.11 Policy H2 (last paragraph) establishes an expectation that local needs housing will normally be delivered without the need for cross-subsidy from market housing and requires robust 'open book' viability evidence to demonstrate the need for market housing where this is not possible. This viability evidence should be produced and independently verified at the applicant's own expense.
- 14.12 Should a viability case be proven, the enabling market housing element should be the minimum required to make the scheme viable, and should only comprise 2-bed houses, bungalows, small 2/3-bed self-build plots or such specific adapted small properties as the Housing Needs Survey may identify. Applications should also be supported by evidence that the proposed market housing mix and types are appropriate to the site location and scale of the whole development. Local residents should also be given the first priority to buy the open market properties, particularly where they may be suitable for downsizers.

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18 NPPF 2024 paragraph 76 footnote 36

## Guidance Note 12 – Rural Local Needs Housing

- a) Local Needs surveys should be undertaken in accordance with Policy H2a, agreed with the housing department, and be guided by the Kent Housing Group guidance.
- b) Viability appraisals must be undertaken at the applicant's expense and will be publicly available on the planning file. They will be independently verified at the cost of the applicant.
- c) Should a viability case be proven, any enabling market housing element should be the minimum required to make the scheme viable, and should only comprise 2-bed houses, bungalows, small 2/3-bed self-build plots or such specific adapted small properties as the Housing Needs Survey may identify.
- d) Applications should also be supported by evidence that the proposed market housing mix and types are appropriate to the site location and scale of the whole development.
- e) Local residents should be given the first priority to buy any open market properties, particularly where they may be suitable for downsizers.

## Appendix 1 – Guidance for Independent and Joint Viability Appraisals

Section 7 of this SPD identifies 3 Options for viability appraisals. Where the applicant requests, the Council may agree to the preparation of a jointly commissioned viability appraisal. The table below sets out the procedural stages for both the independent viability appraisal (Option 1) and the joint viability approach (Option 2), to be followed by the applicant, the Council and the appointed consultant.

This structured and collaborative process is intended to promote transparency, efficiency and consistency, with the objective of reaching an agreed position wherever possible and securing outcomes that meet the interests of all parties.

| Stage       | Step                     | Option 1 – Independent Viability Appraisal   | Option 2 – Joint Viability Appraisal   |
|-------------|--------------------------|--|--|
| Application | Submission (Application) | The applicant should notify the Council at pre application or application submission stage if viability issues affect the deliverability of planning obligations.  |  |
|             |                          | <p>The applicant should confirm that they wish to follow Option 1 – Independent Viability Appraisal.</p> <p>The applicant to commission their own viability appraisal and submit to the council for independent review.</p>  | The applicant should confirm that they wish to follow Option 2 – jointly commissioned viability appraisal.   |
|             | Seeking Quotes           | <p>The Council will approach a minimum of two consultants for quotes to undertake an independent assessment.</p> <p>The applicant will provide to the consultants and to the Council all necessary information. The consultants will confirm whether additional information is required to provide a quote.</p> <p>Consultants will return quotes and estimated timescales for completing the independent appraisal of the applicant’s viability report.</p> | <p>The Council will approach a minimum of two consultants for quotes to undertake the jointly commissioned viability appraisal.</p> <p>The applicant will provide to the consultants and to the Council all necessary information. The consultants will confirm whether additional information is required to provide a quote.</p> <p>Consultants will return quotes and estimated timescales for completing the joint report.</p> |
|             | Instructing a consultant | The Council decide which consultant to instruct.   |  |
| Assessment  | Further Information      | The appointed consultant will confirm whether all necessary information has been submitted, or whether further information is required for completion of the viability appraisal.  |  |

| Stage       | Step                  | Option 1 – Independent Viability Appraisal  | Option 2 – Joint Viability Appraisal   |
|-------------|-----------------------|---|--|
|             | Viability Review      | <p>The consultant will undertake the viability appraisal and prepare a draft report for review by the Council.</p> <p>The Council will review the draft report and provide comments and queries, which should be addressed by the appointed consultant.</p>   | <p>The consultant will undertake the viability appraisal and prepare a draft report for review by the applicant and Council.</p> <p>There will be an opportunity for both parties to provide comments or queries on the appraisal, which the appointed consultant would respond to. All communications between parties and the consultant will be copied to the other party.</p> |
| Negotiation | Resolving Differences | <p>Where the Council and applicant disagree on assumptions or outcomes further discussions will take place between all parties to seek to resolve these.</p> <p>Meetings involving the Council, applicant, and consultant, with minutes taken will be made publicly available.</p> <p>Any written rebuttals, letters, or email exchanges forming part of the viability dialogue should also be made public.</p> |  |
| Conclusion  | Final Position        | <p>Once all avenues for discussion have been exhausted, the final agreed position, and any remaining areas of disagreement, should be clearly recorded.</p> <p>A final sense check of appraisal results may be undertaken at this stage.</p>  |  |
|             | Determination         | <p>The final independent viability appraisal will be issued to the Council and applicant. The final appraisal will be published on the planning file and made available for the public to view.</p> <p>The Council will consider the outcome of the viability process.</p>  | <p>The final joint viability appraisal will be issued to the Council and applicant. The final appraisal will be published on the planning file and made available for the public to view.</p> <p>The Council will consider the outcome of the viability process.</p>   |

## Appendix 2 - Other Useful Links and Guidance

- [Affordable Homes Guarantee Scheme 2020 - GOV.UK](#)
- [Dover District Local Plan to 2040 \(adopted October 2024\)](#)
- [Dover District Local Plan Policies Map](#)
- [Kent Housing Group Protocol June 2022](#)
- [Homes England Affordable Homes Programme 2021 to 2026: information for partners - GOV.UK](#)
- [National Planning Policy Framework 2024](#)
- [Planning practice guidance - GOV.UK:](#)
  - [Viability - GOV.UK](#)
  - [Housing and economic needs assessment - GOV.UK](#)
  - [First Homes - GOV.UK](#)
  - [Planning obligations - GOV.UK](#)
  - [Self-build and custom housebuilding - GOV.UK](#)
  - [Build to rent - GOV.UK](#)
  - [Shared ownership homes: buying, improving and selling: How shared ownership works - GOV.UK :](#)
  - [Shared-Ownership-Policy-2024.pdf \(DDC\)](#)

## Glossary

- **[Affordable Housing \(AH\)](#)** - Affordable housing includes homes for sale or rent and is for people whose needs are not met by the private market. It includes housing of the following types:
  - **[Affordable Rent](#)** - Homes let at least 20% below local market rents (affordable rental properties) or let at rates set between market rents and social rents (intermediate rental properties).
  - **[Social Rent](#)** - Social Rent homes are for people on low incomes, let at a rate set through the National Rent Regime in England at around 50% of market rents.
  - **[Shared Ownership](#)** – Homes where an individual owns and pays a mortgage on one portion and pays rent to a landlord on the other.
  - **[First Homes](#)** – Homes available to qualifying residents at a discount on market rate (between 30% and 50%.
- **Case Law** – A legal decision which sets a precedent for how policy should be applied
- **Condition** - Planning conditions are legal requirements that local planning authorities can impose on planning permissions granted under the Town and Country Planning Act 1990.
- **Council (the Council)** – Dover District Council
- **Deed of Variation (DoV)**– An amendment to a Section 106 legal agreement between parties which agrees to vary one or many of its obligations.
- **Deferred contributions** – Developer obligation monies paid following the completion of part or all of a development, using a review mechanism (known as a clawback) to establish viability, in order to not undermine the viability of the proposed development at the time of decision.
- **Designated Rural Area** – Areas designated by [The Housing \(Right to Acquire or Enfranchise\) \(Designated Rural Areas in the South East\) Order 1997](#)

- **Developer obligations** – (Also often called ‘planning obligations’) Monies and infrastructure required to be delivered and secured by a legal agreement in order to mitigate the impacts of that development on existing facilities or infrastructure.
- **Development** - As defined by [Section 55 of the Town and Country Planning Act 1990](#), development means carrying out building, engineering, mining or other operations in, on, over or under land, or changing the use of buildings or land.
- **Financial contributions** – developer obligations paid as monies to the Council towards the delivery of services, facilities and infrastructure which mitigate the impact of a proposed development.
- **Full Planning application** - A full planning application is required when making detailed proposals for developments which are not covered by a householder application or permitted development rights.
- **Gross Development Value (GDV)** – The projected sale value of a completed development, before costs.
- **‘in lieu of’** – instead of.
- **Local Plan** (Dover District Local Plan to 2040) [Dover District Local Plan to 2040 \(Adopted October 2024\)](#)
- **Local Planning Authority (LPA)** – the decision making authority for planning applications within a designated area, usually the district/borough council.
- **Major development** – residential development at or above ten dwellings or 0.5ha, or commercial development creating 1,000sqm of floorspace or more.
- **Material consideration** – the matters which a planning officer must consider when deciding a planning application.
- **Neighbourhood Plan** – A document produced by a Town/Parish council or Neighbourhood Forum, which can allocate land for development and create policy specific to local needs, providing it is compliant with the strategic objectives of a district/borough’s adopted Local Plan.
- **Nomination rights** – The legal right of a local authority to nominate tenants or shared ownership lessees from its waiting list for an Affordable Housing property.
- **NPPF** – The ‘National Planning Policy Framework’, national decision-making guidance for planning.
- **Open Market Value (OMV)** is the estimated amount that a property would sell for (exchange contracts) between a seller and buyer on the date of the valuation.
- **Outline planning permission** - Outline planning applications are used to gain an understanding as to whether the nature of a development is acceptable, this can help ensure viability up front. Specific details known as ‘reserved matters’ can then be confirmed later. Allowing for planning permission to be granted subject to the condition that reserved matters are approved before development begins.
- **Planning Practice Guidance (PPG)** – guidance issued by government on how to apply planning legislation, guidance and case law.
- **Pre-Application** – a type of application where an applicant seeks advice and guidance from a case officer on relevant policies and requirements to their site, prior to submitting an outline/full application. This helps reduce the likelihood of submitting an invalid application.
- **Registered Provider (RP)** - English based bodies that provide social housing and are registered with the Regulator of Social Housing under the Housing and Regeneration Act 2008. There are three main types of RPs: not- for-profit RPs (known as Housing Associations), for- profit RPs and local authorities.

- **Reserved Matters** - An application for Approval of Reserved Matters is only required when the applicant already has outline planning permission for a development. This cannot be used as a stand-alone application for planning permission.
- **Section 106 Agreement (S106)** – A legal agreement under the Town and Country Planning Act 1990 which secures developer obligations necessary to mitigate the additional impacts of the proposed development.
- **Section 73 application** - Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of conditions attached to an existing planning permission.
- **Self-Build and Custom-Build Housing** – new housing development which is completed solely by the owner or their contractors, and which they will occupy. This is usually governed by a different policy regime than market housing, and can involve the sale of ‘serviced plots’, which have infrastructure in place and are ready to build on.
- **Specialist and older persons’ housing** – housing built to different regulations or layout to enable their occupation by residents who have reduced mobility. Their occupation may be restricted to people of a certain age, or a nominated occupier.
- **Staircasing** – The ability of a lessee under a shared ownership tenancy to increase the share they own.
- **Strategic Housing Market Assessment (SHMA)** – An assessment of the housing market in the district, in preparation of the Local Plan, to determine an appropriate type and mix of tenancies to be sought by housing policies.
- **Supplementary Planning Document (SPD)** – A document produced to support the implementation of policies within an adopted Local Plan. Once adopted, it is a material consideration when deciding planning applications.
- **Viability appraisal** – Independent evidence submitted by an applicant to demonstrate that their scheme cannot come forward while delivering certain developer obligations.