

Appendix B

East Herts:  
Affordable Housing SPD

**October 2019**



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# 1. Introduction

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## **Background:**

- 1.0.1 The Council believes that everyone should be given the opportunity to access a decent home, which they can afford and is in a community where they want to live. A key objective of the East Herts District Plan seeks to ensure that new housing is accessible to, and meets the needs and aspirations of the District's communities.
- 1.0.2 The purpose of this Affordable Housing Supplementary Planning Document (SPD) is to aid the effective implementation of the Council's strategic housing objectives. In particular the affordable housing policies in the East Herts District Plan 2018 and also assisting developers in understanding the Council's approach and requirements with regards to viability.
- 1.0.3 The approach to affordable housing outlined in this document seeks to ensure the effective and consistent implementation of the policies relating to the provision of affordable housing in the East Herts District Plan. It also includes recognition of changes made to the National Planning Policy Framework (NPPF) in February 2019, as well as changes to the Planning Practice Guidance (PPG) with regards to viability.
- 1.0.4 This SPD provides further information and guidance on the specific District Plan policies contained in Chapter 14: Housing, and in particular those relating to affordable housing. The guidance in the SPD will assist applicants, developers and providers of affordable housing, to understand how the District Plan Policies will be implemented. Extracts of the relevant policies in the District Plan

are provided in Appendix A of this document, and the District Plan in its entirety can be found here: [www.eastherts.gov.uk/districtplan](http://www.eastherts.gov.uk/districtplan)

### **Legislative and Policy Context:**

1.0.5 This draft SPD will be a material consideration in the determination of planning applications when formally adopted by the Council and will also inform pre-application discussions on relevant developments. This document has been prepared in accordance with Regulations 8 & 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

1.0.6 This Supplementary Planning Document will replace the Affordable Housing and Lifetime Homes SPD 2008 when adopted.

### **What is affordable housing?**

1.1.1 The definition of affordable housing is set out in the NPPF 2019 as; housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers).

1.1.2 In order to be considered affordable, housing must meet the criteria above and also comply with one or more of the following definitions:

**Affordable housing for rent:** *meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes*

*provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*

**Starter homes:** *is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*

**Discounted market sales housing:** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*

**Other affordable routes to home ownership:** *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.*

1.1.3 The above presents the latest definition as at the time the SPD has been published. Should there be any subsequent update to the definition(s) set out in regulations, policy or guidance then it shall supersede what is set out above.

## How is affordable housing provided?

1.2.1 The planning system is central to delivering affordable housing across the UK and delivers the majority of affordable housing in East Herts. This is principally provided through requiring developers to include affordable housing within their open market housing development as a part of planning permission. This is what is known as a planning obligation or Section 106<sup>1</sup> agreement and these are legally enforceable obligations used to mitigate the impact of a development proposal.

1.2.2 The level of affordable housing required on development sites is set out in planning policies, namely within the East Herts District Plan 2018 and the NPPF (details on this are explained in Section 2). ~~This~~ [The East Herts District Plan](#) also includes [further details on](#) the type, size and tenure of affordable housing that is expected to be delivered as part of an open market development.

1.2.3 In some exceptional circumstances there are other routes and mechanisms to enable the delivery of affordable housing, either through off-site provision or through [entry-level and](#) rural exception schemes.

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<sup>1</sup> Section 106 of the Town and Country Planning Act 1990 (as amended).

## Structure of Document

- 1.3.1 **Section 2** outlines the exact requirements expected of developers as set out in the District Plan and taking into consideration the changes to the NPPF.
- 1.3.2 **Section 3** sets out the various requirements and expectations when it comes to discussions at pre-application or submitting a full planning application. It also notes the expectations of design and the Council's approach to alternatives to on-site provision.
- 1.3.3 **Section 4** builds on the previous section by highlighting the Council's process for securing the provision of affordable homes through S106 agreements.
- 1.3.4 **Section 5** notes the Council's approach to viability which largely follows the updated PPG.

## 2. The Affordable Housing Requirement

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2.0.1 The specific requirement for affordable housing will be calculated in accordance with District Plan Policy HOU3 as well as any other material considerations, including the most-up-to-date Strategic Housing Market Assessment (SHMA), the National Planning Policy Framework (NPPF) and relevant Planning Practice Guidance (PPG). District Plan Policy HOU3 expects that relevant developments will provide the following proportion of affordable housing:

- a) *up to 35% on sites proposing 10 or fewer gross additional dwellings and where the dwellings would have a combined gross floor space greater than 1,000 sq metres;*
- b) *up to 35% on sites proposing 11 to 14 gross additional dwellings;*
- c) *up to 40% on sites proposing 15 or more gross additional dwellings.*

2.0.2 In July 2018 and again in February 2019 the NPPF was revised, paragraph 63 notes that the provision of affordable housing should only be sought for residential developments that are classified as a *major development*. Major developments are subsequently defined in the NPPF glossary as: *development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.*

2.0.3 Therefore ~~it is unlikely that~~ the Council will not seek affordable housing contributions on sites with less than 10 dwellings unless the site is 0.5 hectares or more, or national policy is changed following the publication of this SPD.

- 2.0.4 The District Plan sets out that affordable housing will be sought on all sites that propose residential development that falls within the use class C3 (dwelling houses), including specialist accommodation such as; sheltered and extra care housing for older people where such schemes provide accommodation that is self-contained. The PPG has been updated to note that with reference to the application of the use class system to specialist housing it is for a local planning authority to consider into which use class a particular development may fall.
- 2.0.5 There will be cases where the percentage of affordable housing sought for a site does not give rise to an exact number of dwellings (e.g. 40% of 51 dwellings would be an affordable requirement of 20.4). In these cases the approach will be to round up or round down the number to give the final affordable housing figure. Any calculation that results in a requirement of 0.5 or above will be rounded up to the next whole unit, anything below 0.5 will be rounded down to the next whole unit.
- 2.0.6 On a site with significantly more affordable housing than required by Policy HOU3, the Council will ensure that the policy compliant level of affordable housing of 35% or 40% will be secured as affordable for first and subsequent occupiers of those homes, and that there are provisions for recycling subsidy should the property no longer be an affordable unit.
- 2.0.7 The phasing of a development or division of the site into separate parts will not result in reducing the proportion of affordable housing to be delivered. Where a site can clearly be identified, irrespective of ownership, the entire site will be used to determine whether the site meets the size criteria for affordable housing provision.

2.0.8 Inclusion of affordable housing on a development should also include provisions for:

- 1.** housing to either remain at an affordable price for future eligible households and/ or;
- 2.** any recycled grants to be spent on the provision of affordable housing within East Herts.

## 3. Planning Application Stage

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3.0.1 This section provides further details and guidance on areas such as affordable housing mix, type and design that are commonly addressed at the pre-application or planning application stage.

### Pre-Application Advice

3.1.1 Applicants are advised to seek pre-application planning advice to discuss all aspects of the planning proposal including the affordable housing requirement of the proposed scheme: <https://www.eastherts.gov.uk/preapplicationservice>

3.1.2 The purpose of pre-application planning advice in relation to affordable housing is to establish how affordable homes will be delivered, and to help provide all parties with greater certainty as the proposals move forward.

3.1.3 An Affordable Housing Statement (i.e. the proposed approach to meeting the affordable housing requirement and the housing mix) should be submitted with any pre-application materials to enable pre-application consideration and discussion. If possible, it should include the following:

- the intended quantum, type and tenure, size (in squared meters, and the number of bedrooms) and number of persons per unit; and
- the proportion of affordable housing to meet M4(3): Category 3 Wheelchair User Dwelling standards and the units specifically identified.

3.1.4 Pre-application discussions in relation to affordable housing will seek to address the following:

- consider the quantum, type, size and tenure of affordable housing to be provided;
- consider the location;
- identify/involve the (potential) Registered Provider/s and consider the arrangements for the provision of affordable housing prior to the submission of a planning application; and
- consider the Heads of Terms of the S106 Agreement that will be required to ensure the delivery of the affordable housing. A S106 agreement is necessary to secure the affordable housing requirements set out in the District Plan; the agreement must be completed before planning permission is issued

### **Housing Mix, Type and Tenure:**

3.2.1 All developments that provide Affordable Housing will be expected to do so in line with Policy HOU1 of the District Plan and take into account the Council's most up-to-date evidence of housing needs in accordance with Policy HOU3. The tenure mix will be negotiated by the Council on a site by site basis and the type and size of affordable units sought will accord with the most up to date evidence on housing need.

3.2.2 The SHMA is an objective analysis of the housing circumstances in the District. It provides an evidence base to support the Council's affordable housing requirement, however, the Council shall at all times seek to use the most up-to-date information available.

3.2.3 The most recent SHMA identifies a requirement that 84% of new affordable housing provision should be for affordable rent with the remaining 16% being for intermediate affordable housing tenures as summarised by table 14.2 in the East Herts District Plan and below.

| <b>Affordable Rent</b>                 |            | <b>Number</b> |
|--|------------|---------------|
| Flat                                   | 1 bedroom  | 660           |
|  | 2+ bedroom | 360           |
| House                                  | 2 bedroom  | 930           |
|  | 3 bedroom  | 970           |
|  | 4+ bedroom | 250           |
| Subtotal                               |            | 3,170         |
| % of affordable housing                |            | 84%           |
|  |            |               |
| <b>Intermediate Affordable Housing</b> |            | <b>Number</b> |
| Flat                                   | 1 bedroom  | 80            |
|  | 2+ bedroom | 70            |
| House                                  | 2 bedroom  | 180           |
|  | 3 bedroom  | 240           |
|  | 4+ bedroom | 40            |
| Subtotal                               |            | 610           |
| % of affordable housing                |            | 16%           |

3.2.4 Paragraph 64 of the updated NPPF sets out that where major developments are providing housing at least 10% of the total dwellings are to be made available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. As this figure is

taken from the total dwellings across the site and not just the affordable proportion, the expectation to provide affordable home ownership is greater than that set out in the SHMA (16% of 40% is less than 10% of 100%).

3.2.5 The Council will therefore accept an uplift in affordable home ownership tenures to accommodate the change in the NPPF up to the level of 25% of the affordable proportion. Regarding the overall mix, it is up to the applicant to provide sufficient evidence to demonstrate why any further deviation from the SHMA is appropriate for a specific site.

3.2.6 The Council's current preferred intermediate tenure is shared ownership. Where applicants wish to propose an alternative intermediate housing product they should submit evidence demonstrating why a particular product is more appropriate and we will consider this against the definitions set out in the NPPF and consider how the product proposed meets identified needs now and in the future.

3.2.7 The Council does have certain expectations for different affordable housing products in particular affordable housing for rent and shared ownership (see below):

### **Affordable Housing for Rent**

3.2.8 Where affordable rented housing is proposed the Council will ~~require~~ seek to negotiate that rents, including service charges, are below or capped at the Local Housing Allowance rate (LHA) (or its equivalent). Currently, the District has 3 Local Housing Allowance rate areas in the District:

- Harlow and Stortford;

- South East Herts, and
- Stevenage and North Herts

3.2.9 Local Housing Allowance is a flat rate allowance based on the size of the household and the area your property is located in. Providers **will need generally prefer** to ensure that affordable rents do not exceed the LHA for the area in which the property is situated.

### **Shared Ownership**

3.2.10 For Shared Ownership housing the initial share sold must be between 25% -75 % of the total value. After purchasing the initial share owners have the option to staircase up to 100% ownership, unless the property is within a Designated Protected Area.

3.2.11 In the main, rural areas in the East Herts district are largely within Designated Protected Areas. Where development is in a Designated Protected Area, staircasing on shared ownership properties is restricted to 80% to retain the affordable element of the properties in perpetuity. It is noted that in East Herts, allocated sites within Designated Protected Area's would also be subject to this staircasing restriction. Where the retention of stock may not be such an issue to some sites, the applicant should discuss the application of Designated Protected Area's with the Council at the earliest possible stage.

3.2.12 For reference, a full list of Designated Protected Areas can be found here: [http://www.legislation.gov.uk/uksi/2009/2098/pdfs/uksi\\_20092098\\_en.pdf](http://www.legislation.gov.uk/uksi/2009/2098/pdfs/uksi_20092098_en.pdf)

## **Design and Layout**

3.3.1 As with all forms of residential accommodation, the Council expects affordable housing to be built to a high standard of design and amenity. Affordable housing provided within developments should be integrated with the market housing and the design and appearance should be indistinguishable from those market units and built using the same materials, form and quality of design to ensure that it makes a positive contribution to local character and distinctiveness. This also applies to provision of parking which should be no different to that of market units.

3.3.2 Plans submitted to the Council for planning consideration should clearly show the position of all affordable units within the development, except in those outline applications where only illustrative plans are submitted.

3.3.3 To achieve mixed, inclusive and sustainable communities and to supplement the supporting text in paragraphs 14.4.16 and 14.4.17 of the District Plan, affordable housing [\(with the exception of 100% affordable housing schemes and rural exception sites\)](#) should;

- on all sites be distributed across the site rather than provided in one single parcel;
- on sites incorporating 30 or more residential units be provided in groups of no more than 15% of the total number of units being provided or 25 affordable units, whichever is the lesser.

3.3.4 To meet the needs of current and future household the requirement is for all new dwellings to meet the Building Regulation M4(2): Category 2 accessible and adaptable dwellings. This, alongside the Category 3 requirement (below), is

based upon an identified need as the NPPF and PPG allows plan-making authorities to make such a requirement.

- 3.3.5 On sites proposing 11 or more gross additional dwellings, a proportion of affordable dwellings will be expected to meet the Building Regulations Requirement M4(3): Category 3 – Wheelchair User Dwellings. Such dwellings may be wheelchair adaptable or wheelchair accessible. The Council will therefore negotiate the proportion of wheelchair adaptable/accessible dwellings on a site-by-site basis.
- 3.3.6 The most recent assessment of need for wheelchair user dwellings will inform negotiations. The SHMA identifies a need for 15% of affordable housing to meet wheelchair user requirements alongside the 10% of market housing.
- 3.3.7 The Council's preference is for wheelchair user dwellings to be adaptable to provide a wet room. Where there is a specific and clearly evidenced need, which is outside of that provided for by the wheelchair standard, the Council may have different requirements to meet that need. Such a requirement will be subject to viability considerations.
- 3.3.8 The Council will negotiate size, layout and design on a site by site basis but it should be noted that DES4 in the District Plan requires all new residential development to deliver internal rooms that are of an appropriate size and dimension. As the Council does not have any local space standards, developers

could look to the Nationally Described Space Standards<sup>2</sup> for guidance as to what might be considered a satisfactory size and dimension.

3.3.9 All development including affordable housing should make efficient use of land and meet density requirements. See Policy HOU2 (Appendix A).

3.3.10 To ensure that the design, layout and size of affordable housing provides a dwelling that suits the need of the household its providing for and delivers the greatest opportunity for longevity within the unit; developers should consider the number of people a unit can accommodate. Where possible, the following criteria should be followed:

- 2 bed units should be suitable for 4 people
- 3 bed units suitable for 5 people
- 4 bed units suitable for 7 people
- 5+ bed units suitable for more than 7 people

3.3.11 Consideration should also be given in dwellings with more than one double bedroom, that the second and subsequent double bedrooms are suitable for two single beds. This should be demonstrated in the floorplans submitted as part of an application.

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<sup>2</sup> <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

## **Provision of Affordable housing on an Alternative Site**

- 3.4.1 The Council expects that, in accordance with the District Plan Policy HOU3, the required affordable housing will be provided on site.
- 3.4.2 In exceptional circumstances, the Council may permit a proportion or the entire affordable housing requirement to be delivered on an alternative site within the District.
- 3.4.3 Applicants proposing off-site provision should provide justification, setting out why off site provision is necessary, as part of a planning application.
- 3.4.4 Where off-site provision is agreed by the Council, the amount of affordable housing to be delivered will be calculated using the following formula:
- a) 40% affordable housing requirement:  $40/60 \times M$
  - b) 35% affordable housing requirement:  $35/65 \times M$
- Where M = the number of open market units*
- 3.4.5 It is strongly recommended that pre-application advice is sought if an applicant considers that an off-site contribution is appropriate.

## **Commuted Sums in Lieu of Affordable Housing**

- 3.5.1 Commuted sums will only be considered where the Council is satisfied that there is justification for not providing affordable housing on-site or on an alternative site.

- 3.5.2 The Council will use the formula in paragraph 3.28 to calculate the amount of affordable housing subject to a commuted sum.
- 3.5.3 The Council will seek to secure financial contributions broadly equivalent to the cost of providing the affordable housing on-site via an agreed methodology with the Council.
- 3.5.4 It is strongly recommended that pre-application advice is sought if an applicant considers that a commuted sum is appropriate.
- 3.5.5 Commuted sums will be subject to indexation for the residential development. Indexing using BCIS mean averages for Hertfordshire will apply.
- 3.5.6 The applicant should notify the Council when the development commences or the trigger for payment/delivery has been reached. On receipt of the notification the Council will issue an invoice for the amount payable including any indexation.
- 3.5.7 The Council will monitor Building Control and other sources and will issue an invoice if the Applicant fails to advise the Council that the payment has been triggered.
- 3.5.8 Indexation applies until the date of the invoice, so in these circumstances the amount may be higher than if the applicant had advised the Council when the payment was triggered. Penalty interest is payable to all unpaid contributions and accrues from the date payment is triggered to the date of actual payment.

## Provision of Land in Lieu of Affordable Housing

- 3.6.1 The Council may accept or seek the provision of land in lieu of part or all of the affordable housing contribution.
- 3.6.2 If the proposal for alternative land is accepted by the Council, land should be serviced to its boundaries and be of a size that is of equivalent value to on-site provision and in an agreed location close to the original site.

## Vacant Building Credit

- 3.7.1 The NPPF provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floor space of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.
- 3.7.2 To qualify for vacant building credit a site must be a brownfield development and contain an existing building at the time the application is made and it is proposed to:
- a) demolish the building for redevelopment; or
  - b) bring the building back into use
- 3.7.3 Vacant Building Credit will apply where the building is **wholly** vacant and to be redeveloped. completely. If VBC applies, the existing floorspace or a vacant

building should be credited against the floorspace of the new development and may result in a proportionate reduction in the Affordable Housing Contribution should be made. Vacant Building Credit does not apply where the building:

- a) has been abandoned in planning terms; or
- b) has been vacated for the sole purpose of redevelopment; or
- c) is covered by an extant or recently expired planning permission

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3.7.4 The application of VBC will be guided by the Planning Practice Guidance and national policy. VBC does not apply to buildings that have been abandoned, the PPG sets out a number of criteria that can be used to distinguish whether a use has been abandoned.

3.7.54 The proportion of the vacant building floor space as part of the total new floor space should be used to calculate the proportion of the affordable housing required by the policy.

## **Rural Exception Sites**

3.8.1 The Council may permit schemes for affordable housing on rural sites, which would not usually secure planning permission, to meet an evidenced local housing need. Proposed developments should accord with Policy HOU4.

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3.8.2 Evidence should be submitted as part of the planning application to support the requirement for localised housing need and should reflect the evidenced need in terms of unit sizes and affordable housing tenures within the village or /parish. Local Parish Council support would be beneficial to demonstrate

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a local housing need.

3.8.3 If a viability assessment is required it should be undertaken as set out in Section 5. Where a viability assessment demonstrates that a cross subsidy is necessary to make the scheme viable, a small number of market homes may be permitted. In these circumstances, the market housing will be expected to meet identified local needs.

3.8.4 A Rural Exception Scheme will be subject to a Local Lettings Cascade as part of the planning requirement which will prioritise the rental allocation of affordable homes provided to residents with a local connection to the village and will be agreed with the Council.

3.8.5 The Council will support the development of entry-level exception sites where they meet the criteria set out in paragraph 71 of the NPPF. The Council encourage developers seeking to bring forward an entry-level exception site to discuss their proposals with the Council at the earliest possible stage.

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## 4. Securing Affordable Housing

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4.0.1 The Council will secure affordable housing requirements through entering into a legal agreement with the developer or landowner, or receive a Unilateral Undertaking under Section 106 of the Town and Country Planning Act (1990) (as amended) and in some cases, dependent on the scale or nature of development, via conditions.

4.0.2 The affordable housing clauses in the S106 agreement will include obligations relating to:

- the size, type, tenure, location, design and layout of the affordable housing;
- the number of affordable dwellings to be delivered;
- limitations on the occupation of the affordable housing;
- nomination rights;
- the phasing of [the delivery of] affordable housing in relation to market housing;
- triggers relating to any review mechanism or commencement schedule;
- indexation
- the retention of the housing as affordable;
  - obligations relating to the affordable dwellings for first and subsequent residents;
  - requirements to replace the affordable dwellings and for subsidy recycling
  - continued use of affordable dwellings in perpetuity
  - review (clawback) provisions, where relevant.

4.0.3 The S106 Agreement will contain a clause(s) that trigger the delivery/payment of the contribution. This will usually be the commencement of development and will be set out in the obligations.

4.0.4 The Council expect that the S106 guideline(s) and guideline clauses which can be provided by the Council will be utilised.

### **Monitoring the Affordability of Homes in Perpetuity**

4.1.1 The benefits of affordable housing developed in the district should remain in place for future generations.

4.1.2 Regarding rented affordable homes, the Council believes this should be provided in line with the definition of 'affordable housing for rent' given in Annex 2 of the NPPF (or see pages 4-5 of this SPD).

4.1.3 With regard to affordable homes of all tenures, where it is proposed that the completed units are not to be transferred to a Registered Provider the Council will need to be satisfied that, provisions are in place to ensure that:

- the affordable housing will remain at an affordable price for future eligible households *or*;
- the value of the subsidy or discounted price is recycled for alternative affordable housing provision. These provisions will usually take the form of restrictive covenants within any S106.

4.1.4 If, in any type of scheme, it is proposed that a Registered Provider is not to be involved in the management of affordable housing, the Council will usually

secure the provision of affordable housing for successive occupants through the use of planning obligations, restricting occupancy to households who cannot compete in the housing market.

## **Funding**

- 4.2.1 Affordable housing provided as part of planning agreements arising from market-led developments is unlikely to receive grant funding. It should therefore be assumed that affordable units required by the Council's District Plan will be delivered without grant funding.
- 4.2.2 If grant funding for affordable housing is available at the time of application and/or delivery from Homes England, the Council or another funding body, the criteria should be requested from the funding body by the applicant and the applicant must be able to demonstrate to the Council that the viability assessment is based on reasonable and realistic assumptions about subsidy.

## **Nomination rights**

- 4.3.1 The Council will normally seek 100% nomination rights for the initial lets of affordable rented housing and a minimum of 75% nomination rights for relets.
- 4.3.2 A Nomination Agreement should be entered into prior to occupation of the affordable rented dwellings and will be a requirement of the S106.

4.3.3 Shared ownership properties must be made available to eligible applicants. ~~To be eligible~~The Council's preference is that the person must meet the Local Authority Shared Ownership Cascade<sup>3</sup> ~~and as well as being~~be financially eligible through the Government's criteria and regulations.

## **Affordability**

~~4.4.1 Affordable housing is provided for eligible households whose needs are not met by the market and includes social rented, affordable rented and intermediate housing.~~

~~4.4.2 Affordable rents, including service charges, should be set no higher than current Local Housing Allowance (LHA) rates in the District and shall be secured as part of a S106 agreement.~~

~~4.4.3 The Broad Market Rental Areas (BMRA) for East Herts are~~

- ~~• Harlow and Stortford~~
- ~~• Stevenage and North Herts; and~~
- ~~• South East Herts~~

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<sup>3</sup> <https://www.eastherts.gov.uk/article/35169/Shared-Ownership-Local-Priorities-Cascade>

## 5. Viability

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- 5.0.1 The percentage of affordable housing that the Council will expect to secure from development schemes has been informed by development viability assessments which demonstrate that the policy requirements are viable for most locations across the District.
- 5.0.2 The Council recognises that in some cases there may be abnormal development costs which need to be considered. Negotiations to reduce obligations based on site specific viability considerations should only be necessary where the site circumstances suggest exceptional or abnormal costs that will make policy compliance unviable.
- 5.0.3 Where there is a proven need for affordable housing, but a developer is not able to provide the scale of provision or contribution expected, the onus will be on the developer to demonstrate why a site should not include provision in line with the Councils' targets.
- 5.0.4 If possible and where necessary, a viability statement should be provided and discussed at the pre-application stage.

### **What is the Council's Approach to Viability?**

- 5.0.5 In line with the Planning Practice Guidance, the East Herts District Plan provides up-to-date policies on the contributions expected from development. Therefore, proposals that comply with the District Plan will be assumed to be viable.

5.0.6 Should the applicant successfully demonstrate that a circumstance does justify the need for a viability assessment, then such a viability assessment must be submitted in line with the updated Planning Practice Guidance. This includes submitting assessments compliant with the standardised inputs and be prepared on the basis that it will be made publically available.

5.0.7 The Planning Practice Guidance sets out the key principles in understanding viability in both plan making and decision taking, a link to the relevant guidance can be found here: <https://www.gov.uk/guidance/viability>

# Appendix A

## Policy HOU1 Type and Mix of Housing

- I. On new housing developments of 5 or more gross additional dwellings, an appropriate mix of housing tenures, types and sizes will be expected in order to create mixed and balanced communities appropriate to local character and taking account of the latest Strategic Housing Market Assessment and any additional up-to-date evidence, including the latest East Herts Housing and Health Strategy; local demographic context and trends; local housing need and demand; and site issues and design considerations.
- II. Affordable Housing should be provided in accordance with Policy HOU3 (Affordable Housing).
- III. Where appropriate, provision of specialist housing will be encouraged for older people and vulnerable groups in accordance with Policy HOU6 (Specialist Housing for Older and Vulnerable People).
- IV. Provision of accessible and adaptable dwellings to meet the changing needs of occupants over their lifetime should be provided in accordance with Policy HOU7 (Accessible and Adaptable Homes).
- V. Self-Build Housing in accordance with Policy HOU8 (Self-Build and Custom Build Housing)
- VI. Where appropriate, provision of specialist accommodation will be expected for Gypsies and Travellers and Travelling Showpeople and Non-Nomadic Gypsies and Travellers and Travelling Showpeople, in accordance with Policies HOU9 (Gypsies and Travellers and Travelling Showpeople) and HOU10 (New Park Home Sites for Non-Nomadic Gypsies and Travellers and Travelling Showpeople).

I. Housing development should make efficient use of land. Proposals are required to demonstrate how the density of new development has been informed by the character of the local area and contributes to:

- (a) The design objectives set out in Policy DES4 (Design of Development);
- (b) Improving the mix of house types in accordance with Policy HOU1 (Type and Mix of Housing); and
- (c) Providing adequate levels of public open space in accordance with Policy CFLR1 (Open Space, Sport and Recreation); and
- (d) Retaining existing site features, including mature trees, shrubs, hedgerows and amenity areas, and make provision for new green infrastructure in accordance with Policy NE4 (Green Infrastructure).

II. Subject to the above, densities will vary according to the relative accessibility and character of locations. Higher net densities will be favourably considered on central sites in or near town centres and where the character of the surroundings allows.

III. Medium net densities will normally be appropriate for sites that are in more peripheral locations within and on the edge of these settlements.

IV. In villages and for some other locations lower net densities may be more appropriate to respond to local character and context.

## Policy HOU3 Affordable Housing

I. Affordable housing provision will be expected on all development sites that propose development that falls within Class C3 (Dwelling Houses) as follows:

- (a) up to 35% on sites proposing 10 or fewer gross additional dwellings, where the dwellings would have a combined gross floor space greater than 1,000 square metres;
- (b) up to 35% on sites proposing 11 to 14 gross additional dwellings;
- (c) up to 40% on sites proposing 15 or more gross additional dwellings.

II. Affordable Housing provision will be expected to incorporate a mix of tenures taking account of the Council's most up to date evidence on housing need. The Council will negotiate the tenure mix to be provided on a site, having regard to the affordable housing products defined within the National Planning Policy Framework, through the planning application process.

III. Lower provision may be permitted if it is demonstrated that the 35% and 40%, as appropriate referred to in I (a), (b) and (c) above, cannot be achieved due to viability reasons or where it would prejudice the need to secure other infrastructure priorities.

Applicants seeking to justify a lower percentage level of affordable housing to that referred to in I (a), (b) and (c) above, will be required to provide a financial viability assessment as part of the planning application. Where agreement is not reached, external independent consultants, agreed by both the Council and applicant, will be appointed by the developer, to undertake further independent viability assessment. The applicant will be required to meet the costs of this independent assessment.

IV. Affordable Housing should normally be provided on site, apart from in exceptional circumstances when agreed with the Council. Applicants will be required to

provide justification as part of the planning application setting out the need for off-site provision or financial contributions in lieu to be made.

V. The affordable housing units should be integrated into the open market housing development using appropriate design methods, i.e. tenure blind, and ‘pepper-potted’ across the site in clusters appropriate to the size and scale of the development.

VI. To secure the benefits of affordable housing for first and subsequent occupiers affordable rented and intermediate housing will be retained as affordable by means of an appropriate legal agreement or condition with the Council, or the subsidy will be recycled for alternative affordable housing provision.

## **Policy HOU4 Rural Exception Affordable Housing Sites**

I. Proposals for rural exception affordable housing schemes, on sites that would not normally be acceptable for general housing development, may be permitted, subject to the following criteria:

- (a) The exception site is adjacent to an existing built-up area boundary, or is well related to existing residential development and amenities located in, or adjacent to, a clearly identifiable village or settlement;
- (b) The proposed development will contribute towards meeting an identified need for affordable housing within the parish; and
- (c) The proposed development would be appropriate to the settlement and area in which it is proposed to be located in terms of scale, form and character.

II. The Council will base its assessment of identified housing need on the Housing Register and other available up-to-date housing needs assessments.

III. A small number of market homes may be permitted, at the Council’s discretion, where a viability assessment demonstrates that a cross subsidy is necessary to

make the scheme viable. Any market housing provided will be expected to meet identified local needs.

IV. Where permission is granted this will be subject to planning obligations and will include safeguards that the scheme provides for the identified local affordable housing need and will continue to do so in perpetuity.

## **Policy HOU7 Accessible and Adaptable Homes**

I. In order to ensure delivery of new homes that are readily accessible and adaptable to meet the changing needs of occupants, and to support independent living, the Council will require that:

- (a) all new residential development should meet the Building Regulations Requirement M4(2): Category 2 - Accessible and Adaptable Dwellings; and
- (b) on sites proposing 11 or more gross additional dwellings, a proportion of dwellings will be expected to meet the Building Regulations Requirement M4(3): Category 3 - Wheelchair User Dwellings, where appropriate.

II. Only where circumstances exist where it can be demonstrated by the applicant that it is not practically achievable or financially viable to deliver this policy, will new development be exempt from the requirement.

## **Policy HOU8 Self-Build and Custom Build Housing**

I. To support prospective self-builders, on sites of more than 200 dwellings, developers will be expected to supply at least 1% of dwelling plots for sale to self-builders, having regard to the need identified on the Council's Self-Build and Custom Build Register.

II. The Council will support locally proposed self-build projects identified within a neighbourhood Plan wherever possible.

III. Planning permissions should include conditions requiring self-build developments to be completed within 3 years of a self-builder purchasing a plot.

IV. Where plots have been made available and marketed appropriately for at least 12 months and have not sold out, the plot(s) may either remain on the open market as self-build or be built out by the developer.