

To: All Members of the Council

Fiona Cameron, Democratic Services Manager
& Deputy Monitoring Officer

Policy and Governance

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Date: 19 April 2021

Dear Councillor

COUNCIL MEETING - TUESDAY, 27 APRIL 2021

A MEETING of the WAVERLEY BOROUGH COUNCIL will be held in the ZOOM MEETING - VIRTUAL MEETING on **TUESDAY, 27 APRIL 2021** at **7.00 pm** and you are hereby summoned to attend this meeting.

The Agenda for the Meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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AGENDA

1. APOLOGIES FOR ABSENCE

The Mayor to report apologies for absence.

2. MAYOR'S ANNOUNCEMENTS

3. ELECTION OF MAYOR 2021/22

4. ELECTION OF DEPUTY MAYOR 2021/22

5. VOTE OF THANKS TO THE RETIRING MAYOR

6. DECLARATIONS OF INTEREST

To receive from Members, declarations of interest in relation to any items included on the agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

7. NEW MAYOR'S ANNOUNCEMENTS

8. ELECTION OF LEADER 2021 - 2023

9. LEADER'S ANNOUNCEMENTS

10. REVIEW OF POLITICAL PROPORTIONALITY OF THE COUNCIL AND APPOINTMENT OF COMMITTEE MEMBERSHIPS (Pages 5 - 14)

The Local Government and Housing Act 1989 requires local authorities, where Members are divided into political groups, to review annually the representation of the political groups on their principal committees to ensure that the seats are allocated in the same proportion as that in which the council as a whole is divided.

This report recommends that the Council establish committees, allocate the seats on those committees to political groups represented on the Council in accordance with the statutory proportionality rules, and agree to the appointment of the groups' nominees.

Recommendation

It is recommended that Council:

- i. Note the political balance of the Council, as set out in paragraph 4.4.

- ii. Approve the constitution of committees, the allocation of seats, the appointment of members to those seats in accordance with Groups' nominations, and the nomination of chairman and vice-chairman positions, as set out in Annexes 1 and 2.
- iii. Approve the allocation of seats and appointments to the Surrey County Council Local Committee.

11. EXE 74/20 AFFORDABLE HOUSING SPD (Pages 15 - 88)

To continue consideration of the Affordable Housing SPD, which was deferred at the meeting on 22 March 2021.

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WAVERLEY BOROUGH COUNCIL

COUNCIL

27 APRIL 2021

Title:

**Review of Political Proportionality of the Council, allocation of committee seats,
and appointments to committees for 2021/22**

Report of the Monitoring Officer: Robin Taylor, Head of Policy & Governance

Access: Public

1. Purpose and summary

- 1.1 The Local Government and Housing Act 1989 requires local authorities, where Members are divided into political groups, to review annually the representation of the political groups on their principal committees to ensure that the seats are allocated in the same proportion as that in which the council as a whole is divided.
- 1.2 This report recommends that the Council establish committees, allocate the seats on those committees to political groups represented on the Council in accordance with the statutory proportionality rules, and agree to the appointment of the groups' nominees.

2. Recommendation

It is recommended that Council:

- i. Note the political balance of the Council, as set out in paragraph 4.4.
- ii. Approve the constitution of committees, the allocation of seats, the appointment of members to those seats in accordance with Groups' nominations, and the nomination of chairman and vice-chairman positions, as set out in Annexes 1 and 2.
- iii. Approve the allocation of seats and appointments to the Surrey County Council Local Committee.

3. Reason for the recommendation

It is a statutory requirement to report to Annual Council on the political composition of the council, the allocation of committee seats to political groups in accordance with political proportionality, and to confirm the appointment of members to committee seats.

4. **Background**

- 4.1 Political Groups on the Council are formed in accordance with the Local Government (Committee and Political Groups) Regulations 1990 when two or more councillors notify the Head of Policy & Governance, the Proper Officer, of their wish to be treated as a group.
- 4.2. The Conservatives, Farnham Residents, Liberal Democrats, Green Party, and Labour have registered as Political Groups under the provisions of the Local Government and Housing Act 1989. There are two un-grouped Independent Members of the Council.
- 4.3. There is a total of 95 committee seats available on the Council's Principal Committees (four Overview & Scrutiny Committees, Audit, Standards, Licensing & Regulatory, and Eastern and Western Planning Committees).
- 4.4. The political breakdown of the Council is shown below, together with the rounded total number of committee seats per group:

	Cons.	Farnham Residents	Lib. Dem.	Green	Labour	Ind.	Total
No. of seats on the Council	21	15	15	2	2	2	57
Proportion	36.84%	26.32	26.32	3.51	3.51	3.51	100%
No. of committee seats	35 (34.99)	25 (25.00)	25 (25.00)	3 (3.33)	4 (3.33)	3 (3.33)	95*

*see paragraph 4.6

- 4.5 The following principles apply to the allocation of seats (LG&HA1989, s15 (5)):
- (a) *Preventing domination by a single group:* That not all the seats on the body to which appointments are being made are allocated to the same political group;
 - (b) *Ensuring a majority group enjoys a majority on all committees:* That the majority of seats on each committee are allocated to a particular group if the number of persons belonging to that group is a majority of the authority's membership;
 - (c) *Aggregating all committee places and allocating fair shares:* That, subject to (a) and (b), when allocating seats to a political group, the total number of their seats across all the ordinary committees of the Council, must reflect their proportion of the authority's membership; and
 - (d) *Ensuring as far as practicable fairness on each committee:* That, subject to (a) to (c), the number of seats on each committee is as far as possible in proportion to the group's membership of the authority.

- 4.6 Seats are allocated to each committee as shown in Annexe 1, and following consultation with the Leaders of each of the political groups represented on the Council. Their agreement has been obtained to the calculations relating to the allocation of seats on committees in order to accommodate various rounding errors.

Appointments to Committee Places

- 4.7 The Local Government & Housing Act 1989 requires that once the Council has determined the allocation of committee places between the political groups, the Council must then appoint the nominees of the political groups to the committees. The nominations of the Group Leaders are shown on Annexe 2.

Area Planning Committees

- 4.8 The allocation of planning committee seats to the Groups has been calculated firstly as a proportion of the total number of planning committee seats (= 30 seats). The allocation of seats on the Eastern and Western Planning Committees is calculated allocated according to the political proportionality of the council seats within the relevant geographical area.

Surrey County Council Local Committee

- 4.9 Waverley Borough Council has nine seats on the Surrey County Council Waverley Local Committee, allocated on a political proportional basis as shown in Annexe 1.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 The corporate governance of the Council provides the basis of the Council's work towards achieving all the Corporate Priorities.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

The cost of servicing the Council's Committees will be met through existing budgets.

6.2 Risk management

N/A

6.3 Legal

The legal implications are set out in the body of the report..

6.4 Equality, diversity and inclusion

The Council is under a statutory duty to ensure that equality and diversity is a key part of the decision making process of the Council. This is fundamental to the Council being able to meet its statutory responsibilities. There are no direct equality, diversity or inclusion implications in this report.

6.5 Climate emergency declaration

There are no climate emergency implications arising from this report.

7. Consultation and engagement

7.1 Political groups have been invited to make their appointments to the seats allocated to them. The Council must agree to appoint members nominated by the political groups to the seats allocated to those groups.

8. Other options considered

8.1 The Council must appoint at least one Overview and Scrutiny Committee, and a Licensing Committee. All other committees are constituted at the discretion of the Council.

8.2 On 20 April 2021, Council is considering recommendations to reduce the number of Overview & Scrutiny Committees, and to make permanent the Eastern and Western Planning Committees. A re-allocation of committee seats may necessary as a result of future Council decisions.

9. Governance journey

9.1 This report is being made to the Full Council.

Annexes:

Annexe 1 – Political proportionality and allocation of committee seats

Annexe 2 – Committee memberships 2021/22

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Annexe 1

Allocation of Committee seats 2021/22

	Cons.	Farnham Residents	Lib. Dem.	Green	Labour	Ind.	Total
No. of committee seats	35	25	25	3	4	3	95
VFM & Cust. Service O&S	2	3	3	0	0	1	9
Community Wellbeing O&S	4	2	2	0	1	0	9
Environment O&S	3	2	2	1	0	1	9
Housing O&S	4	2	3	0	0	0	9
Licensing & Regulatory Committee	5	3	3	1	0	0	12
Audit Committee	3	2	2	0	1	0	8
Standards Committee	3	3	2	0	1	0	9
Eastern Planning Committee	7	0	5	1	1	1	15
Western Planning Committee	4	8	3	0	0	0	15
	35	25	25	3	4	3	95

	Cons.	Farnham Residents	Lib. Dem.	Green	Labour	Ind.	Total
SCC Local Committee	3	2	2	0	1	0	9*

*1 seat to be nominated by either FR or LD

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WAVERLEY BOROUGH COUNCIL
Committee Memberships 2021/22

indicates Chairman

* indicates Vice-Chairman

Committee	Conservative	Farnham Residents	Liberal Democrat	Green Party	Labour	Independent	Total seats
Value for Money and Customer Service O&S	Peter Martin# Stephen Mulliner	Roger Blishen Jerry Hyman Peter Marriott	Jerome Davidson Joan Heagin* Peter Nicholson	0	0	<i>TBC</i>	9
	<u>Substitutes</u> Simon Dear John Gray	<u>Substitute</u> Kika Mirylees	<u>Substitute</u> Richard Cole				
Community Wellbeing O&S	Kevin Deanus# Jenny Else Mary Forszowski Val Henry	Sally Dickson Kika Mirylees*	<i>TBC x2</i>	0	George Wilson	0	9
	<u>Substitutes</u> Chris Howard Trevor Sadler	<u>Substitute</u> Jerry Hyman	<u>Substitute</u> Joan Heagin				

Committee	Conservative	Farnham Residents	Liberal Democrat	Green Party	Labour	Independent	Total seats
Environment O&S	Carole Cockburn# Jenny Else Anna James	Brian Edmonds George Hesse	Ruth Reed Paul Rivers	Martin D'Arcy*	0	Maxine Gale	9
	<u>Substitutes</u> Chris Howard Peter Isherwood	<u>Substitute</u> Jerry Hyman	<u>Substitute</u> Joan Heagin				
Housing O&S	Patricia Ellis Michael Goodridge Richard Seaborne# David Else	Michaela Wicks Peter Marriott*	Christine Baker Richard Cole Jacquie Keen	0	0	0	9
	<u>Substitutes</u> Jenny Else Carole Cockburn	<u>Substitute</u> Jerry Hyman	<u>Substitute</u> Joan Heagin				
<u>Licensing and Regulatory Committee</u>	Patricia Ellis Michael Goodridge* Peter Isherwood Anna James Robert Knowles#	Roger Blishen Jerry Hyman Michaela Martin	Jacquie Keen Ruth Reed Jerome Davidson	Martin D'Arcy	0	0	12
	<u>Substitutes</u> Steve Cosser Jenny Else	<u>Substitute</u> John Ward	<u>Substitute</u> Joan Heagin				

Committee	Conservative	Farnham Residents	Liberal Democrat	Green Party	Labour	Independent	Total seats
Audit Committee	Jan Floyd-Douglass John Gray Richard Seaborne	Michaela Wicks Peter Marriott#	Jerome Davidson* Richard Cole	0	George Wilson	0	8
Standards Committee	Michael Goodridge* John Gray Robert Knowles	John Ward# Penny Marriott Peter Marriott	Peter Nicholson <i>TBC</i>	0	George Wilson	0	9

Appeals Panel	Steve Cosser Michael Goodridge Val Henry Christine Howard	Roger Blishen Michaela Wicks Kika Mirylees	Paul Follows Jacquie Keen Mark Merryweather	Steve Williams	George Wilson	0	12
SCC Local Committee (operates under SCC Standing Orders)	Carole Cockburn Steve Cosser Trevor Sadler	George Hesse Jerry Hyman <i>TBC</i>	Christine Baker Mark Merryweather	0	George Wilson	0	9

PLANNING COMMITTEES

Committee	Conservative	Farnham Residents	Liberal Democrat	Green Party	Labour	Independent	Total seats
EASTERN PLANNING COMMITTEE	<p>David Else (Vice Chairman) Steve Cosser Trevor Sadler Kevin Deanus John Gray Patricia Ellis Michael Goodridge</p> <p>[Val Henry] [Christine Howard] [Jan Floyd-Douglass] [Mary Foryszewski] [Richard Seaborne]</p>	0	<p>Paul Rivers (Chairman) Richard Cole Ruth Reed Joan Heagin Liz Townsend</p> <p>[Christine Baker] [Paul Follows]</p>	<p>Martin D’Arcy</p> <p>[Steve Williams]</p>	<p>George Wilson</p> <p>[Nick Palmer]</p>	<p>Maxine Gale</p>	<p>15 plus</p> <p>9 subs</p>
WESTERN PLANNING COMMITTEE	<p>Carole Cockburn Peter Isherwood Anna James Simon Dear</p> <p>[Stephen Mulliner]</p>	<p>David Beaman (Chairman) Roger Blishen Sally Dickson Brian Edmonds George Hesse Michaela Martin Kika Mirylees John Neale</p> <p>[Michaela Wicks] [Jerry Hyman] [John Ward]</p>	<p>Cllr John Robini (Vice-Chairman) Cllr Dan Hunt Cllr Jacquie Keen</p> <p>[Peter Nicholson] [Jerome Davidson]</p>	0	0	0	<p>15 plus</p> <p>8 subs</p>

WAVERLEY BOROUGH COUNCIL**COUNCIL****27 APRIL 2021**

EXE 74/20 Affordable Housing SPD**Report back to Council on Affordable Housing SPD**

1. At the Council meeting on 22 March 2021 (concluding the meeting that commenced on 23 February 2021), Council considered a recommendation from the Executive to approve an Affordable Housing SPD. The original report (dated 23 February 2021), draft SPD, and Consultation Statement, are attached.
2. At the Council meeting on 22 March 2021, Cllr Mulliner proposed an amendment, to revise the wording of Paragraphs 93 and 94 of the SPD. There had been no opportunity for the Council's Planning and Legal Officers to review the proposed revised wording. Therefore Council agreed to defer further consideration of the amendment, and the SPD, and await a report from Officers on whether the proposed revised wording would withstand legal challenge.
3. **Extract of minutes from Council Meeting: 21.03.21**
 - 96.2 The Mayor opened up the debate to Members, and Cllr Mulliner proposed an amendment to strengthen the wording of paragraphs 93 and 94 of the SPD, in order for the council to protect its position with developers who sought to reduce their affordable housing contribution for viability reasons after planning permission had been granted.
 - 96.3 Members debated the amendments and whilst sympathetic with the aim, noted that the wording of the SPD would need to be carefully considered to ensure that it would withstand challenge. Therefore, the Leader proposed, it was duly seconded by Cllr Mulliner, and unanimously
 - 96.4 RESOLVED that further consideration of the Affordable Housing SPD would be deferred to the next meeting of Council, to allow officers to consider the wording proposed by Cllr Mulliner and report back to Council.
4. The following schedule shows the original wording of paragraphs 93 and 94, Cllr Mulliner's proposed revised wording, and Officer's comments along with Officer's recommended alternative to Cllr Mulliner's revision.

Original wording from SPD document	Council Mulliner’s proposed amendments	Officer comments
<p>93. Where the level of affordable housing provision is reduced, due to an accepted viability submission position, clawback or top-up by way of an affordable housing financial contribution may be pursued by the Council. If the development of the site proves to be significantly more financially viable as it progresses than the initial position suggested would be the case, subject to further viability assessment, clawback or top-ups may be considered by the Council.</p>	<p>93. Where the level of affordable housing provision is reduced, due to an accepted viability submission position, clawback or top-up by way of an affordable housing financial contribution will be pursued by the Council if it believes that the development of the site will prove to be significantly more financially viable on completion than indicated in the initial viability submission. This will be established by a further viability assessment of the completed development using the same methodology as used in the initial viability submission with updated costs, values and revenues. The further viability assessment will be carried out by an independent RICS-qualified surveyor/valuer appointed by the Council and at the Council’s expense. It shall be carried out at a time agreed by the parties within 60 days before or after completion.</p>	<p><u>It is important to note that the scope for a ‘clawback’ or ‘top-up’ arrangement does need to be agreed with the developer and must be place at the time permission is granted. There is no legal mechanism to impose such arrangements on developers either unilaterally, or retrospectively.</u></p> <p><u>Accordingly, clawback under Section 106 of the TCPA 1990 is not a feasible approach in the absence of agreed baseline land values from the outset and the willingness of all parties to enter into such an arrangement.</u></p> <p><u>The proposed amendment as suggested by Councillor Mulliner cannot work in practice, as it is written, because the Council cannot retrospectively impose clawback or top-up payments on a development.</u></p> <p><u>In order to strengthen the wording of paragraph 93, and to clarify the circumstances under which agreement to a clawback or top-up clause in a s106 agreement will be pursued with the developer, officers would recommend the text be amended as follows:</u></p> <p><u>“93. Where the level of affordable housing provision is reduced due to an accepted viability submission position, clawback or top-up by way of an affordable housing financial</u></p>

		<p><u>contribution will be pursued by the Council with the developer prior to the grant of planning permission if it is believed that, should market circumstances materially alter between the granting of permission and delivery, the development of the site may potentially prove to be significantly more viable on completion than as indicated in the initial viability submission.”</u></p>
<p>94. If the Council decides that a clawback or similar arrangement is required this will be incorporated into a Section 106 Agreement or Deed of Variation. This will usually be based on the actual costs, values, revenues etc. of the completed development compared with the viability submission made with the application or agreed subsequently</p>	<p>94: When paragraph 93 applies, the Council will incorporate its right to require a further viability assessment into a Section 106 Agreement or, if a Section 106 Agreement already exists, in a Deed of Variation. If a development will be completed in phases, the Council will also incorporate the right to treat each phase as a separate application for the purposes of determining viability at completion. Any financial contribution shall not exceed that required for the application to meet the requirements of Policy AHN1.</p>	<p><u>Officers consider that the amended wording suggested by Councillor Mulliner is not workable as currently drafted, but note the valid point made about larger developments that are undertaken in separate phases. Officers therefore recommend the text be amended as follows</u></p> <p><u>94. If the Council decides a clawback or similar arrangement is required, this will be incorporated into an initial Section 106 Agreement with the developer, which will include details of the mechanism for calculating any clawback or top up provision. This will be based on the estimated initial costs, values, revenues, etc. of the proposed development from the viability submission made with the application, and the s106 will provide for this to be reviewed subsequently on the completion of the development, if the Council considers this is required. In the event of disagreement between the parties any further viability assessment that may be necessary will be carried out by an independent RICS-qualified surveyor/valuer. Where a development is to be carried out in phases, the s106 Agreement may provide for</u></p>

		<u>further viability assessment and possible clawback or top up payments on, or prior to, the completion of phases.”</u>
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WAVERLEY BOROUGH COUNCIL

COUNCIL

23 FEBRUARY 2021

Title:

Affordable Housing Supplementary Planning Document

Portfolio Holders: Cllr Anne-Marie Rosoman

Housing and Community Safety

Cllr Andy MacLeod

**Planning Policy, Services and
Brightwells**

Heads of Service: Andrew Smith

Head of Housing Delivery and Communities

Zac Ellwood

Head of Planning and Economic Development

Key decision: Yes

Access: Public

1. Purpose and summary

1.1 The purpose of this report is to seek the Executive's approval of the Affordable Housing Supplementary Planning Document (SPD), and to recommend that it is formally adopted by the Council.

1.2 The proposed SPD sets out the Council's approach for securing affordable housing in accordance with the application of relevant planning policies contained in Local Plan Part 1. It follows consultation on the draft SPD, which took place in two phases, 9th November – 14th December 2018 and 1st July – 16th August 2019.

2. Recommendation

2.1 The Executive recommends to the Council that the Affordable Housing Supplementary Planning Document (SPD) be approved.

3. Reason for the recommendation

3.1 The Affordable Housing SPD provides further guidance about the Council's approach to affordable housing provision on development sites. Having an adopted SPD will enable this guidance to be taken on board early in the planning process. This will help to ensure that new developments provide sufficient affordable housing and will enhance the Council's ability to negotiate with developers.

4. Background

- 4.1 Local Plan Part 1 (LPP1) includes two policies directly relating to the provision of affordable housing. Policy AHN1 concerns affordable housing on development sites and sets out a requirement for a minimum of 30% of new homes on development sites to be affordable. The policy also sets out the circumstances in which a financial contribution rather than on site provision would be considered acceptable. Policy AHN2 concerns Rural Exception Sites which allow affordable housing to be provided on sites which adjoin or are closely related to existing rural settlements where there is a genuine local need.
- 4.2 Since the adoption of LPP1 these two policies and supporting text have provided the only guidance to developers and stakeholders about the Council's approach towards affordable housing provision. It is recognised in paragraph 9.27 of LPP1 that more detail regarding the application of Policies AHN1 and AHN2 is required and that this should be addressed through the publication of a SPD. The proposed content of the SPD is outlined at paragraph 9.27 of LPP1. Specifically the paragraph states that the SPD will provide more detail on the following matters:
- The approach to calculating financial contributions;
 - Up-to-date information on the type and size of affordable housing required;
 - The cascade mechanism to be applied in cases where viability is an issue; and
 - Others matters of detailed interpretation/application of the policies.
- 4.3 Each of these matters is addressed in the Affordable Housing SPD.
- 4.4 The approach remains to require on site provision and only allow financial contributions in exceptional circumstances. Developers will be required to demonstrate why onsite provision is not feasible and also demonstrate that other approaches to providing on site affordable housing have been considered and exhausted. The SPD also includes details of the methodology to be used to calculate financial contributions.

Up-to-date information on the type and size of affordable housing required

- 4.5 The SPD confirms that the Council will continue to seek 30% of the affordable housing to be for intermediate/shared ownership and the remaining 70% of the affordable housing for social/affordable rent. The Council's preferred mix of affordable homes reflects the findings of the Strategic Housing Market Assessment prepared for LPP1 which recommends the following mix of sizes for affordable housing:

	1 bed	2 bed	3 bed	4 bed	Total
Percentage split of affordable housing	40%	30%	25%	5%	100%

The cascade mechanism to be applied to cases where viability is an issue

- 4.6 The SPD sets out the Council's approach where viability is cited as an issue by developers. In such cases a developer will be required to submit a viability appraisal to the Council and for the Council to agree that the provision of on site affordable

housing is not viable. The proposed approach is considered to enable the maximum amount of affordable housing to be delivered albeit, off site through the use of financial contributions.

Other matters of detailed interpretation/application of the policies

4.7 The revised National Planning Policy Framework (NPPF) amended the site size thresholds for affordable housing provision. Policy AHN1 of LPP1 states that in non designated rural areas developments providing a net increase of 11 dwellings or more will be required to provide affordable housing. The NPPF (2019) amended the threshold to require sites delivering 10 dwellings or more or over 0.5 hectares in size would be eligible for affordable housing provision. This policy change is reflected in the SPD to provide certainty for developers and stakeholders.

4.8 The SPD also includes the following guidance:

- Guidance on the scope and requirements of legal agreements;
- Criteria for affordable housing providers;
- Guidance regarding vacant buildings credit; and
- A template Section 106 Agreement.

A copy of the SPD is attached as Annexe 1 to this report.

Implications of the Government's Recent Announcement about Changes to the Planning System

4.9 The Affordable Housing SPD will be a significant material consideration in the determination of planning applications and appeals. It will support a transparent and efficient planning process and will ensure consistent and fair decision making.

4.10 In August 2020 the Ministry of Housing, Communities and Local Government published a White Paper (*Planning for the Future*) which proposes a new tariff style Infrastructure Levy system. If implemented, the new system would replace existing Section 106 affordable housing requirements. It is not yet clear how such arrangements would ensure the future delivery of genuinely affordable homes for rent on new development sites.

4.11 A second consultation in August 2020 (*Changes to the Current Planning System*) proposes securing 'First Homes' for sale through developer contributions, at the same time raising thresholds so that developments of up to either 40 or 50 dwellings would not be required to deliver any affordable homes.

4.12 The Affordable Housing SPD may need to be revised in future to take into account new legislation passed and/or guidance published.

5. Relationship to the Corporate Strategy and Service Plan

5.1 This report supports the Council's vision in the Corporate Strategy to promote housing to buy and to rent, for those on all income levels. The provision of affordable

housing provides secure, safe and affordable homes for people to thrive and supports the economy.

- 5.2 Outcome 7 of the Housing Service Plan concerns the implementation of the Affordable Housing SPD. The adoption of the SPD will enable the Housing Strategy and Enabling Team to use the document as a basis of securing new affordable homes within development sites.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

The consultation for the SPD has been carried out by existing staff in the Housing Strategy and Enabling team using the Planning Policy consultation system without incurring any extra costs. Any costs associated with implementing the measures in the SPD will be covered by funds within existing budgets or by developers where viability assessments are required. No additional staffing or IT resources are likely to be required.

6.2 Risk management

Having an adopted Affordable Housing SPD will reduce the risk of new developments providing insufficient or the wrong type of affordable housing.

6.3 Legal

The Council must prepare SPDs in accordance with the Planning and Compulsory Purchase Act 2004 (as amended), Town and Country Planning (Local Planning) (England) Regulations 2012 and the Community Infrastructure Levy Regulations 2010. SPDs provide further detailed guidance on local plan policy topics and do not form part of the statutory development plan.

There are no legal implications arising out of this report beside the normal activities undertaken by the Council's Legal Services team in relation to securing Section 106 Agreements.

6.4 Equality, diversity and inclusion

The Affordable Housing SPD supports policy AHN1 of Local Plan Part 1 and seeks to maximise the delivery of affordable housing in Waverley. Affordable housing actively promotes equality by offering security and opportunity to households in housing need, who often experience inequalities associated with living on a low income. Women, people with disabilities and BME groups are more likely than other groups to access social housing. The development of new affordable housing therefore benefits these groups.

6.5 Climate emergency declaration

The guidance contained within the SPD will assist in providing high quality affordable housing within Waverley in sustainable locations. New affordable homes will be required to make a positive contribution to the environment and this will be considered as part of the planning and construction process.

7. Consultation and engagement

- 7.1 A working group of officers from Housing and Planning Services drafted an Affordable Housing SPD, which was then open for consultation late 2018 to housing professionals, Council Members and Officers.
- 7.2 All comments were reviewed, and where relevant, incorporated into the draft. The draft was subsequently considered at the O&S Committee on 26th February 2019 for public consultation, which took place between 1st July and 16th August 2019.
- 7.3 The consultation ran using the Council's online consultation portal; Inovem. Copies of the document were made available for inspection on the Council website and hard copies at the Burys, Godalming. Letters were also sent to a range of statutory consultees inviting comment.
- 7.4 Responses were passed to the Housing Strategy and Enabling Team, who reviewed each response, incorporated relevant comments and subsequently amended the document. Attached as Annexe 2 to this report is a Consultation Statement that details the comments received and the Council's response.
- 7.5 In total 17 responses were received. These were from a range of stakeholders including Parish and Town Councils, agents, developers, affordable housing providers, statutory consultees and individuals. The Draft SPD has been amended following the consultation to take on board a number of the comments made specifically about making the draft S.106 Agreement, Mortgage in Possession and Nomination Clause referred to in the SPD available. In response, a copy of these documents has been added as an appendix to the SPD.
- 7.6 The other comments received were not directly related to the text in the draft SPD. Officers noted these comments but have not updated the content of the draft SPD.
8. Other options considered

- 8.1 LPP1 states that further information regarding affordable housing provision will be provided in a Supplementary Planning Document. Preparation of the Affordable Housing SPD is, therefore, required in order to be consistent with LPP1.

9. Governance journey

- 9.1 The Draft SPD, amended following the consultation, has been sent to members of the O&S Housing and Environment Committees for comment, with a deadline of 25 January 2021 for receipt of comments. It will next be reported to Executive for consideration before seeking approval from Full Council
- 9.2 The draft SPD has been updated to ensure reference is made to the most recent version of the National Planning Policy Framework (NPPF) published in 2019.

Annexes:

Annexe 1 – Draft Affordable Housing SPD

Annexe 2 – Affordable Housing SPD Consultation Statement etc

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Agreed and signed off by:
Legal Services: 07/12/2020
Head of Finance: No financial implications
Strategic Directors: 27/01/2021
Portfolio Holders: 27/01/2021

**Affordable
Housing
Supplementary
Planning
Document**

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CONSULTATION

The Affordable Housing Supplementary Planning Document has been amended to include comments made following public consultation, which took place between 1st July 2019 and 16th August 2019.

EXECUTIVE SUMMARY

1. ***Our vision*** is that Waverley Borough Council is an authority which promotes and sustains housing to buy and rent, for those at all income levels.

(WBC Corporate Strategy 2019-23)
2. House prices in the borough are nearly 13 times average incomes, well beyond the reach of the average family. As at 1 October 2017, there were 1,500 households waiting on Waverley's Housing Register for affordable or social rented housing.

(Waverley Housing Strategy 2018-2023)
3. This Affordable Housing Supplementary Planning Document (SPD) sets out the Council's guidance on the securing of planning obligations and affordable housing from new development within the Borough.
4. It has been prepared to support the new Waverley Borough Local Plan Part 1; Strategic Policies and Sites (LPP1) which was adopted by the Council on 20 February 2018.
5. LPP1 is supported by the National Planning Policy Framework (NPPF), which was published in March 2012 and last updated in February 2019. The NPPF sets out the Government's planning policies and how these are expected to be applied. This SPD is subject to change, in light of any consultation responses or changes to Government legislation and policy.
6. This SPD sets out the Council's approach to securing planning obligations in respect of affordable housing from new development across the Borough.
7. Its purpose is to provide all parties with clarity and guidance on when, how and what affordable housing the Council expects on new developments and to assist the Council in achieving the goals set out in our [Housing Strategy](#).
8. An important role of the Council is to enable and coordinate the provision of housing to meet local need. This includes affordable housing, which is provided for eligible households, whose needs are not met by the market.
9. The Council, through the targets set out in LPP1 will seek to match the supply of new homes with the needs of local people, ensuring that all new residential development contributes appropriate new homes in terms of size, type and tenure.

PART ONE: BACKGROUND

Policy Context

10. The Waverley Borough Council [Local Plan Part 1](#); Strategic Policies and Sites (LPP1) was adopted by the Council on 20 February 2018.
11. LPP1 sets out the strategy for development and growth in the Borough to 2032 and includes policies to secure affordable housing.
12. Chapter 9 ('Affordable Housing and Other Housing Needs') includes Policy AHN1; Affordable Housing on Development Sites and Policy AHN2: Rural Exception Sites.
13. Paragraph 9.27 states that 'more detail on the application of Policy AHN1 and Policy AHN2 will be developed through supplementary planning documents which will include details on:
 - ✓ The approach to calculating financial contributions
 - ✓ Up to date information on the type and size of affordable housing required
 - ✓ The cascade mechanism to be applied to cases where viability is an issue
 - ✓ Other matters of detailed interpretation/ application of the policies'

The Council's affordable housing policies

AHN1- Affordable Housing on Development Sites

Policy AHN1: Affordable Housing on Development Sites

The Council will require 30% affordable housing on all housing developments where at least one of the following applies:

- In designated rural areas¹ developments providing a net increase of 6 dwellings or more
- In non designated rural areas developments providing a net increase of 11 dwellings or more
- Developments that have a maximum gross internal floor area² of more than 1,000 sqm.

14. Policy AHN1; Affordable Housing on Development Sites 'will apply to single use or mixed use schemes, and to all types of residential development including private retirement homes, sheltered accommodation, extra care schemes and other housing for older people where these fall within Use Class C3³' (paragraph 9.16). Residential care homes and nursing homes (Use Class C2) are not required to provide affordable housing.
15. 'The policy will apply to development sites that exceed the thresholds set out. Where such sites are sub-divided, each sub-division or smaller development must contribute proportionally towards achieving the amount of affordable housing which would have been appropriate on the whole or larger site' (paragraph 9.17).
16. Policy AHN1 applies to all types of residential development sites including change of use, conversions and mixed use sites that incorporate an element of residential development and will be applied to the net increase in the number of units on the site.
17. The thresholds in Policy AHN1 of Local Plan Part 1 were set in accordance with, and to reflect, previous national planning practice guidance. Since the adoption of Policy AHN1 in February 2018, the Government has revised the

¹ Rural Areas described under [Section 157 of the Housing Act 1985](#). In the Waverley context, this applies to Areas of Outstanding Natural Beauty (AONB).

² Gross Internal Area (GIA) is defined in the [RICS: Code of Measuring Practice 6th Edition \(2007\)](#) as the internal area of a building measured to the inside face of perimeter walls at each floor level

³ Town and Country Planning (Use Classes) Order 1987 (as amended)

National Planning Policy Framework, whereby affordable housing is required on major developments, which are defined as developments of 10 or more new homes or where the site has an area of 0.5 hectares or more. Therefore, the Council will be applying the thresholds set out in the revised National Planning Policy Framework.

18. In calculating the number of units to be provided on any qualifying site, the Council will normally round up to the nearest number of whole units. However, where this is not practical, a commuted sum can be offered in lieu of a proportion of a dwelling instead. The final decision as to whether to round up or provide a commuted sum for part of a unit will be dependent on the local housing need, nature of the scheme and the impact of rounding up or down on the design, layout and viability of the affordable units.
19. In all cases where on-site provision is being made, the mix of dwelling types, sizes and tenure split should reflect the type of housing identified as being required in the most up to date evidence of housing needs and the Strategic Housing Market Assessment (SHMA), having regard also to the form and type of development appropriate for the site. Any proposed departure from the mix recommended will require justification and supporting evidence to be provided by the applicant.
20. Contributions towards the provision of affordable housing will be either through the on-site provision of affordable homes or by financial contribution or commuted sum⁴. The provision of affordable housing or financial contributions will be secured through an appropriate legal agreement or undertaking.
21. On developments in designated rural areas with a site area under 0.5 hectares but with a net gain of 6-9 dwellings, the contribution may be in the form of a cash payment equivalent to the cost of providing 30% on-site provision in line with the Council's Commuted Sum Formula. This is paid after the completion of all of the units within the development.
22. In all other cases, on-site provision of affordable housing will be required and only in exceptional circumstances will an alternative to on-site provision be considered.

⁴ See Part 3

AHN2-Rural Exception Sites

AHN2: Rural Exception Sites

Where there is a genuine local need for affordable housing which cannot be met in some other way, small scale developments of affordable housing may be permitted on land that is within, adjoins or is closely related to the existing rural settlement, provided that:

- The development is small in scale, taking account of the size of the village and respects the setting, form and character of the village and surrounding landscape and
- Management arrangements exist to ensure that all of the affordable dwellings remain available on this basis to local people in perpetuity

Where it can be clearly demonstrated that it is required to ensure the viability of the scheme, the Council will consider a limited element of open market housing, provided that;

- The requirements set out under (i) and (ii) or of this policy and be satisfactorily met
- The new development physically integrates the open market and affordable housing and makes the best use of the land; and
- The number of open market dwellings included in the scheme is the minimum required to provide the necessary number of affordable dwellings

23. 'The NPPF states that in rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local requirements, particularly for affordable housing, including through rural exception sites where appropriate. Local Planning Authorities are also expected to consider whether allowing some market housing would facilitate the provision of significant additional affordable housing' (Paragraph 9.21).
24. 'In the past, the Council has successfully applied a rural exception site policy, which allows for small scale developments of affordable housing within or adjoining rural settlements where there is a clear need. This policy has helped to facilitate the development of a number of such schemes in Waverley' (Paragraph 9.22).
25. 'The identification and development of these sites is usually driven by evidence of local need and potential sites, following the carrying out of a local housing needs survey. Recommendations from the survey will propose the number, type, tenure and mix of affordable homes in line with community need' (Paragraph 9.23).

26. 'Proposals for rural exception sites will need to be accompanied by evidence that clearly identifies and quantifies the need for affordable housing in that settlement. Any development proposals must be small in scale, having regard to the size of the settlement itself. The Council will need to be satisfied that:
- There is local support for the scheme, including adequate consultation with the appropriate Parish Council;
 - The scheme meets a demonstrated housing need identified in a Parish Council Needs survey' (Paragraph 9.24).
27. 'Depending on the circumstances and the proposed site, it will be necessary to demonstrate why the site has been selected and why other sites have been discounted. Any planning permission that is granted must be subject to an appropriate legal agreement to ensure that new dwellings remain affordable housing in perpetuity' (Paragraph 9.25).
28. 'It is expected that the land provided for affordable housing will be provided at low or nil cost. However, if it can be demonstrated that it is necessary to create additional funds over and above those available from free and low-cost land, to overcome specific constraints, or that the provision of low cost dwellings for local needs is not realistic or practicable without extra subsidy, an element of open market housing may be permitted within an overall scheme. This will be in the form of carefully prescribed cross-subsidy schemes, in order to meet the objective of developing rural affordable housing to meet local needs. The Council will need to be satisfied that the number of open market dwellings is the minimum necessary to ensure delivery of the scheme' (Paragraph 9.26).

Legal Agreements

29. Planning obligations are used to make a development acceptable in planning terms. Legal agreements are the tool to secure planning obligations and are negotiated between local planning authorities and those with an interest in a piece of land (e.g. developers). Planning obligations can be secured either through a bilateral Section 106 Agreement or through a 'Unilateral Undertaking' from a developer. Unilateral Undertakings are only signed by the land owner(s) and any other parties with an interest in the land, and not by the Council. These unilateral obligations are most frequently used in planning appeal situations, but can also be used in other circumstances.
30. The statutory basis for allowing anyone interested in land in the area of a local planning authority to enter into planning obligations is Section 106 of The Town and Country Planning Act (TCPA) 1990 (as amended).
31. The Council will expect developers to enter into an appropriate Section 106 Agreement covering all aspects of the delivery of affordable housing on the application site. An estimate of the fee payable for this can be obtained from the Council's Policy and Governance Team. The fee will depend on the complexity of the agreement.
32. The Section 106 agreement will include requirements relating to:
 - Definition of affordable housing and affordable tenures
 - The bed size, tenure mix and location of affordable housing
 - Any local connection criteria (if appropriate)
 - Agreement with the Council on the Affordable Housing Plan
 - Safeguarding use of homes as affordable dwellings for future eligible households⁵
 - The retention of obligations relating to the affordable dwellings
 - Expectation to recycle any receipts or grant arising from the disposal of all or part of an affordable dwelling⁶
 - Mortgagee in Possession clauses and limitations on the occupation of the affordable housing.

A Template Section 106 Agreement is attached as Appendix 3 to this document.

33. The Section 106 Agreement should be finalised and ready for completion prior to the determination of the application. There may be circumstances,

⁵ Subject to exclusions, such as Right to Buy/ Right to Acquire

⁶ Subject to current Homes England policies or requirements, and amended as appropriate to reflect any changes arising from Homes England

particularly with Outline applications, where the details of affordable housing provision have not been finalised. The Section 106 Agreement will contain a requirement for the submission and approval of an Affordable Housing Plan. The Affordable Housing Plan would need to be submitted and approved prior to the commencement of the development. In the case of Outline applications, we recommend this should be submitted as part of the Reserved Matters application, when known.

34. The details to be provided in the Affordable Housing Plan are⁷:
 - a. Total number and % of affordable homes
 - b. Anticipated tenure/ bed size/ type/ gross internal floor areas
 - c. Site layout showing location of affordable homes
 - d. Affordable housing provider
 - e. Nomination and management arrangements
 - f. Affordability
35. Planning obligations secured by way of a Section 106 agreement or Unilateral Undertaking are binding on the land and are therefore, enforceable against all successors in title. They are registered as a local land charge and will remain on the register. They will therefore, be revealed on local searches until the planning obligation has been fully complied with or the planning permission to which the Section 106 agreement or Unilateral Undertaking relates has expired.
36. If the Council has evidence that that a planning obligation is not being complied with, the Council will consider the need to investigate this further and whether enforcement action should be taken if other measures fail to rectify the situation.

Scheduling affordable housing delivery

37. The Council will normally include triggers in the legal agreement to ensure that the affordable housing is not delivered significantly in advance or later than the market housing. These may vary from site to site, but a guide would be:
 - Not to allow the commencement of development until a contract has been entered into with an Affordable Housing Provider to deliver the affordable housing in accordance with an approved Affordable Housing Plan.
 - Not to permit nor enable more than 50% of the Open Market Units (or as otherwise agreed in writing between the Borough Council and the Parties) to be in occupation until the date upon which the Parties or their successors in title have transferred the freehold interest in the Affordable Housing Land to the agreed Affordable Housing Provider .

⁷ See Appendix 1

- Not to permit nor enable more than 75% of the Open Market Units to be in occupation until the date upon which the Parties or their successors in title have completed the affordable housing units.
- Unless otherwise agreed in writing with the Borough Council, the Affordable Housing Units shall be occupied pursuant to the provisions of the Nomination Agreement.

Maintaining accommodation as affordable housing

38. In order to ensure that the need for affordable housing in Waverley Borough continues to be met in the future, it is considered that there should be provisions that either preserve the status of the affordable housing, replace it, or, if it is no longer used for affordable housing, that resources derived from it are recycled to replace the dwelling(s) that have been lost.
39. The Council will therefore, require provisions in the Section 106 agreement that:
- Keep the units within the definition of affordable housing; and
 - Require any purchaser (other than an occupier) to preserve the accommodation as affordable housing, or replace it within the Borough, like for like; and
 - Require any purchaser to take on the obligations in the Nomination Agreement or enter into a replacement Nomination Agreement.

Recycling of receipts

40. There are a number of reasons why affordable housing dwellings may be lost, for example: a tenant's statutory acquisition of a rented dwelling, shared ownership staircasing to 100%, discharge of the charge on a shared-equity dwelling. In all cases the Council expects the dwelling to be replaced within the Borough, or any receipts arising from the disposal of the dwelling to be recycled to provide further affordable housing in the Borough, whenever possible.

Nomination Agreements

41. Providers of affordable housing will be required to enter into a Nomination Agreement with the Council. The Council will normally require 100% of nomination rights on all initial lettings/shared ownership sales and 75% of nomination rights thereafter.
42. Policy AHN1 is intended to meet identified local housing need. It is therefore important that households with an established local connection with the Borough as defined in [the Council's Housing Allocation Scheme](#) are nominated to social and affordable rented housing provided through the Waverley Borough

Council Local Plan. Rented vacancies will be advertised through the Council's [Choice Based Lettings](#) system.

43. The Government appointed Help to Buy Agent is responsible for managing shared ownership applications on the Council's behalf. Priority will be given to nominations from households with a local connection on shared ownership schemes, except where units are funded by Homes England grant.

PART TWO: DELIVERY

Planning application process

44. All applicants are strongly encouraged to make use of the Council's pre-application advice service before making a planning application.
45. Pre-application dialogue is particularly important where the proposed development may give rise to an affordable housing requirement. This will allow issues such as local housing need and demand to be considered in addition to the form of any affordable housing contribution.
46. The discussions will need to include the following, as appropriate:
 - Clarify the amount, type, size, and tenure of affordable housing to be provided;
 - Identify the affordable housing provider and contact to discuss the delivery of the affordable housing element of the development;
 - Reach agreement with the chosen affordable housing provider in respect of the design and specification of the affordable housing units;
 - Agree the arrangements for the provision of affordable housing with the affordable housing provider prior to the submission of a planning application;
 - Whether specialist providers (such as Adult Social Care) will need to be engaged in relation to the proposed development, in order to gain a better understanding of any requirements they might make in relation to the proposed development; and
 - Agree with Council Officers the Terms of the Section 106 Agreement that will be required to ensure the delivery of the affordable housing.
47. The applicant should outline the proposed methods of meeting the affordable housing requirements of the scheme which need to be submitted as part of any subsequent planning application. If an application (for 6 units or more or site size over 0.5 hectares) does not set out how the affordable housing requirement will be provided, the application may not be validated and will be returned to the applicant. Once the affordable housing provision has been agreed, the Council will draft an appropriate Section 106 agreement.

Negotiations

48. Where a Section 106 Agreement is required, planning permission cannot be issued until affordable housing Heads of Terms have been agreed. It is the Council's aim to carry out negotiations on planning obligations and to agree Section 106 agreements prior to the issuing of the planning permission to which

the agreement is linked. The aim is to ensure that developers and landowners are informed of the likely works or contributions required for a proposed development at the earliest opportunity. Ideally, this should be through pre-application discussions, which developers are encouraged to undertake as soon as possible.

Affordable housing providers

49. The Council's preference is for affordable housing to be provided and managed by established affordable housing providers or by the Council. The Council works with a number of affordable housing providers that meet the following criteria:
- Own and manage stock in the Borough;
 - Commitment to developing in the Borough;
 - Commitment to Council housing policies; or
 - Ability to fund and deliver affordable housing.

A list of [affordable housing providers](#) and their specialisms is available on the Council's website.

50. The Council expects that affordable housing will usually be provided by housing providers registered with Homes England. However, in exceptional circumstances, the Council may use its discretion to allow other affordable housing providers approved by the Council to deliver affordable housing units, subject to affordability and satisfactory management and allocations arrangements being in place. This will, at all times, be strictly in line with the Homes England guidance and the Council's Allocations Scheme.
51. The Council will encourage developers to work in partnership with preferred affordable housing providers. However, if a developer proposes to provide affordable housing other than through a preferred provider, the Council will consider this, taking account of the following:
- Whether the organisation has any other affordable housing in the Borough or in neighbouring local authority areas;
 - Past commitment and performance in the Borough;
 - Local management base and arrangements for interaction with tenants;
 - Management arrangements for external amenity space;
 - Affordable Rent levels set within Local Housing Allowance levels;
 - Nomination arrangements;
 - Track record in delivering and funding affordable housing;
 - Participation in community initiatives; and
 - Genuine community led development, via a Community Land Trust.

52. In all cases the provider of on-site affordable housing will need to meet the requirements of this document.

Funding of affordable housing

53. In formulating proposals for affordable housing, applicants and developers should be aware of the limitations on funding of affordable housing and the price that providers can typically pay for affordable housing dwellings. This is a direct consequence of ensuring affordability to the occupants. It will need to be explored with reference to the location and scheme proposals.
54. The [Council's latest assessment](#) indicates that providers should pay developers in the range of approximately 30 to 70% market value for affordable homes. The level is dependent on the type(s) and mix of tenure appropriate as affordable housing on a particular site. Very broadly, in the case of a mixed tenure scheme (i.e. including both rented and affordable homeownership tenures) a developer may expect to receive around 50 to 60% market value for the affordable element overall. This point needs to be taken into account in the very early consideration of development proposals.

Size, mix and tenure split

55. The affordable housing mix shown in the table below reflects the affordable housing size requirements and waiting list demands from local households. Overall, there is an increasing need for smaller homes, particularly 1 and 2 bed properties.

	1 bed	2 bed	3 bed	4 bed	Total
HMA Mix	40%	30%	25%	5%	100%

[Recommended bed size mix for affordable homes, from West Surrey Strategic Housing Market Assessment \(SHMA\) 2015](#)

56. The overall housing target is to provide 70% of the total as social/affordable rented properties and 30% as intermediate/shared ownership properties⁸. The revised National Planning Policy Framework expects at least 10% of the homes to be available for home ownership. However, it is recognised that the tenure split on each site may vary, having regard to the specific circumstances of the site. All affordable tenures must meet the definitions set out in [Annex 2 of the revised National Planning Policy Framework](#).
57. The bed size and tenure split for the affordable homes will need to be determined in the light of up-to-date information. This will include the SHMA and local need and supply, having regard also to the form and type of

⁸ West Surrey Housing Market Assessment Summary December 2015, Figure 10

development appropriate for the site. Any proposed departure from the mix recommended in the SHMA will require justification and supporting evidence from the applicant.

Homes for Social or Affordable Rents

58. Affordable housing is provided for eligible households whose needs are not met by the market. Affordable housing providers should consider the impact of different rent levels on different household types, and ensure that all household types in need of affordable housing can be catered for, including larger families requiring three or four bedroom accommodation.
59. Rented units can be provided at social rents or affordable rents by prior agreement with the Council; this will also need to be agreed with the affordable housing provider taking on the units. Both rented tenures will need to be defined in the Section 106 Agreement to allow flexibility. Affordable rents (including service charges) should initially be no higher than the current Local Housing Allowance rate for the area, or 80% of the local market rent, whichever is lower.
60. Local market rent should be calculated using the Royal Institute of Chartered Surveyors' approved valuation methods. Affordable rents must be affordable for local households in housing need.
61. The Council will not support providers seeking upfront payments from tenants in the form of deposits, rent in advance or administration costs in relation to social or affordable rented properties.
62. The Council will need to ensure rents will be affordable to potential occupiers. The Welfare Reform Act imposed an [upper cap](#) on the total amount of benefit an individual household can receive. Where total benefit entitlement is higher than the cap, entitlement will be reduced to the cap. This is likely to present particular challenges for setting rent levels for family sized homes of three or more bedrooms. In these cases, a high Affordable Rent level would cause the total benefit needed by the household to exceed the cap.

Affordable Home Ownership

63. Affordable home ownership includes starter homes, discounted market sale housing, and other affordable routes to home ownership (including shared ownership and shared equity), as set out in Annex 2 of the NPPF.
64. Affordable home ownership in Waverley must be:
 - For eligible households whose needs are not met by the market. Eligibility for grant funded schemes is set out in the [Homes England Capital Funding Guide](#).

- Significantly more affordable than existing similar second-hand market properties in the same area of the Borough.
 - Affordable to the majority of applicants on the Help to Buy Register⁹ living or working in the Borough.
 - Secured at a discount for future eligible households.
 - Provided in accordance with the definitions set out in Annex 2 of the NPPF.
65. Traditionally, affordable home ownership in Waverley has been delivered as shared ownership (or “part-rent part-buy”). To be eligible for shared ownership, applicants must be over 18, have a household income of less than £80,000, and be unable to purchase a property suitable to meet their needs on the open market. The applicant purchases a share in the equity of a property. A mortgage and savings are required for the equity share purchased and rent is paid on the remaining share. After the initial purchase, the owner can usually buy extra shares in the property (known as “staircasing”) until eventually the property is 100% owned. However, staircasing may be capped in certain areas, such as rural exception sites or within [Designated Protected Areas](#). In order to retain affordable housing in these rural areas, the maximum equity share that can be purchased is typically 80%.
66. The Council will work with affordable housing providers to ensure that shared ownership on new schemes remains affordable for local households on low incomes. In order to achieve this, the Council will discuss and agree with the provider the equity share which can be purchased, the rent level on the remainder, and ways in which service charges can be kept to a minimum.
67. Due to the very high open market values in the Borough, affordable housing providers generally offer initial shares in the 25%-40% range. The Council’s expectation is for initial shares to be offered at 25% and rents at 2.5% of the value of the unsold share. These shared ownership terms must be agreed in writing with the Council. Service and management charges must be kept to a minimum, without additional enhancements for non housing related services, and should be agreed with the Council in writing. No ground rent will be payable whilst the accommodation remains as affordable housing.
68. Demand for shared ownership homes in Waverley exceeds supply. The Council will seek to work in partnership with affordable housing providers to market shared ownership to households living or working in Waverley. Where possible, the Council will seek to prioritise Waverley households for new build and resale shared ownership properties.

⁹ Shared ownership housing is allocated through BPHA as the Help to Buy Agent for Waverley.

Quality and Design Standards

69. The Council's expectation for new developments is that the affordable homes should be indistinguishable from, and well-integrated within, the market housing on the site. In other words, the design quality of the affordable housing should be as good, if not better, than the private market housing. The Council has developed Design Standards and Specifications¹⁰ for its own new build developments which set out best practice for design and quality of affordable housing.
70. The Council expects the affordable homes to be distributed throughout the site in small clusters of approximately 10 units, dependent on the scale and design of the development. Locating affordable housing at the end of a cul-de-sac should be avoided where possible. Affordable homes should face private market units as neighbours, in order to promote an inclusive, sustainable community.
71. Existing design policies need to be taken into account when considering affordable housing. Affordable homes in Waverley should comply with the [Building regulations M4 \(2\) Category 2 Standard: "Accessible and Adaptable Dwellings"](#) to meet the needs of older people and people with disabilities.
72. To make best use of affordable housing stock in the context of recent welfare reforms, the Council's expectation is that 2-bed homes should be of the size required to accommodate 4 people, and 3-bed homes should accommodate 6 people (where these are proposed as rented accommodation). For affordable home ownership, 3-bed 5-person units may be acceptable. Affordable homes should meet the [Nationally Described Space Standards](#) set out below,

Unit type proposed	Minimum floor area to meet NDSS	Minimum bedroom size requirement
1-bed flat	50sqm (1b2p)	11.5sqm (double or twin room)
2 bed flat	70sqm (2b4p)	11.5sqm (double or twin room)
2-bed house	79sqm (2b4p)	11.5sqm (double or twin room)

¹⁰ [WBC Design Standards](#)

Unit type proposed	Minimum floor area to meet NDSS	Minimum bedroom size requirement
3-bed house	102sqm (3b6p) if rented 93sqm (3b5p) is acceptable if shared ownership	11.5sqm (double or twin room) Single bedspace must be at least 7.5sqm and at least 2.15m wide

73. The Affordable Housing Units shall be constructed in accordance with the requirements imposed by Homes England’s Design and Quality Standards (mandatory items) current at the time of construction.
74. The majority of residents of affordable housing are car users. Parking for affordable housing should meet the Council’s existing Residential Parking Guidelines. New council homes will also need to meet the parking standards set out in the WBC Design Standards and Specifications. The Council expects the same parking provision to be made available for affordable and market housing of the same size, including a preference for in-curtilage parking. Tenure neutrality is also required in the design of car parking for affordable housing. Parking courts are discouraged for design reasons and in line with ‘Secured by Design¹¹’ guidance.

Building Regulations

75. Your project will need to meet building regulations.
76. Where the Council is the applicant for development led by the Housing Development Team, the Waverley Borough Council Building Control service will be appointed to support compliance within the Building Regulations.
77. Where the application is for a mixed tenure scheme and affordable housing is provided by another affordable housing provider, they will be encouraged to use Waverley Building Control. This will enable an end to end, one team approach for the efficient delivery of the development, subject to compliance with policy and regulations.

¹¹ www.securedbydesign.com

PART THREE: VIABILITY

Development Viability

78. On sites in designated rural areas providing a net increase of 6 dwellings or more, or in non-designated rural areas development providing 10 or more (net) new dwellings or having a site area of 0.5 hectares, the presumption is that 30% affordable housing will be provided on-site, in line with the NPPF and Policy AHN1. However, the Council recognises that there may be exceptional situations where the specific circumstances of the site, or other matters, could mean that achieving the required level of affordable housing would compromise development viability. This must be demonstrated through a viability submission, which should adopt an ‘open book’ approach in line with [Government guidance](#)¹².
79. Where a prospective developer considers viability to be an issue, the onus will be on the developer to provide appropriate financial evidence with any planning application in line with national guidance. The Council’s strong preference is for the required delivery of affordable homes on the development site. If the Council is satisfied that the financial appraisal confirms that affordable housing cannot be provided in accordance with the policy, then negotiations will take place to secure the highest level of affordable housing that is viable.
80. When assessing the overall viability of a scheme, developers should take full account of the scale of planning obligations that are likely to be required, in addition to any Community Infrastructure Levy¹³ liability that may arise. Where a developer raises viability concerns in relation to contributions for an application, the Council will expect a full “open-book” viability assessment for the scheme to be submitted to support the viability case being made¹⁴.
81. Affordable housing is a corporate priority for the Council. Therefore, if a viability issue arises, consideration is expected to be given to a range of alternative options before a reduction or removal of affordable housing will be considered. This will include prioritising the provision of affordable housing over other less critical infrastructure contributions to ensure viability.
82. The Council reserves the right to have all viability assessments checked by an independent RICS-qualified surveyor/valuer to ensure the robustness and validity of the assumptions and methods used. In these circumstances, the Council will appoint the surveyor/valuer, but the viability assessment costs

¹² www.gov.uk/guidance/viability

¹³ The Community Infrastructure Levy Regulations 2010 (as amended)
http://www.legislation.gov.uk/ukxi/2010/948/pdfs/ukxi_20100948_en.pdf

¹⁴As per Appendix 2

incurred by the Council will need to be paid by the applicant. The applicant will also be required to provide a written undertaking to cover the costs before the surveyor/valuer is appointed. Viability reports resulting from this process will be shared and discussed with the applicant.

83. Where, following the above process, conflicts of opinion about scheme viability remain, additional viability work may be necessary. If this is the case, the applicant must first undertake to reimburse the Council in respect of additional costs incurred. Any remaining disputes between the Council and the applicant will be referred to an independent arbitrator (in accordance with RICS guidance).
84. To ensure open and transparent decision making, the Council expects all viability assessments to be publicly available unless the applicant can clearly demonstrate why parts must be redacted, in line with Government guidance on viability. The applicant must highlight the scope of this prior to submission in order for the Council to make a judgment as to what information is released for public view. The weight to be given to a viability assessment will take into account the transparency of the applicant's approach.
85. Affordable housing on s.106 sites may be funded by a combination of private subsidy (in the form of nil cost land) and public subsidy (grant funding). The Homes England funding prospectus states that, "If grant is requested for affordable homes provided under a Section 106 agreement, on a larger site developed as market housing, these homes will need to be additional to those that would be delivered under the Section 106 agreement alone, without grant." Negotiations with landowners should therefore start on the assumption that grant funding from Homes England for affordable homes will not be available.
86. In brief, the viability submission should include as the key elements:
 - A summary clearly stating the request to vary the usual affordable housing requirements and setting out (with explanation) the reasons why, in the applicant's view, the development is unviable when policy compliant affordable housing provision is included; and
 - Detailed Financial Viability Appraisal(s) with supporting information, and all sources stated, demonstrating how the applicant's assumptions come together to inform the submitted viability view. Part 2 and Appendix 2 refer to the Council's specific expectations in these respects.
87. If an applicant wishes to make a viability submission, this should be included as part of the planning application, alongside the Affordable Housing Statement. A draft Unilateral Undertaking may also be included at the applicant's discretion. It should be noted that planning applications without the required information or documentation are unlikely to be validated.

88. A Financial Viability Appraisal, including an explanation, conclusion, information and sources is only current at the time it is prepared. Financial viability will vary over time with the changing economic and property markets. On large sites that are expected to build or sell over a number of years, and particularly where the planning application is in Outline, viability may need to be assessed at multiple/varying points. It will likely need to be considered at pre-application/initial application stage, then subsequently for each phase, and updated when the Reserved Matters application is made or prior to the commencement of each phase.

Basis of the Financial Viability Appraisal

89. The minimum requirements to be provided by the applicant are outlined in Appendix 2. Each assumption relating to the proposed scheme revenue (values), costs, land value and profit must be supported with component figures, including sources made clear. The submitted approach, assumptions and reasoning will need to be clearly explained in detail.
90. The Council will assume that: the cost of meeting the affordable housing requirements in Policy AHN1 should be reflected in the price paid, or price to be paid, for the land, and should be based on:
- No public subsidy or grant;
 - Payment by the provider of the affordable housing should be based on the provision meeting current Homes England Guidance;
 - Any site constraints and the development scope (including as influenced by planning policies) including abnormalities should be reflected in the price paid, or to be paid, for the land; and
 - In accordance with the relevant viability guidance, the land value to be used in the calculation or as a land value benchmark should be the current existing use land value, not necessarily the amount paid for the land.
91. As set out in Paragraph 81 above, in order to assess the applicant's financial viability appraisal, the Council may need to seek advice. It is reasonable for the applicant to bear the costs in these circumstances, as per Paragraph 9.20 in the Local Plan Part 1.

Outcome of the assessment of scheme viability

92. Where the Council is satisfied that the usual policy requirements for affordable housing cannot be met in full due to viability issues, the Council will decide on the appropriate level of reduction or other revision to the affordable housing requirement to enable the scheme to remain financially viable.

93. Where the level of affordable housing provision is reduced, due to an accepted viability submission position, clawback or top-up by way of an affordable housing financial contribution may be pursued by the Council. If the development of the site proves to be significantly more financially viable as it progresses than the initial position suggested would be the case, subject to further viability assessment, clawback or top-ups may be considered by the Council.
94. If the Council decides that a clawback or similar arrangement is required this will be incorporated into a Section 106 Agreement or Deed of Variation. This will usually be based on the actual costs, values, revenues etc. of the completed development compared with the viability submission made with the application or agreed subsequently.

Indexation of Financial Contributions

95. Financial contributions will be subject to indexation by the Council in order to ensure that their value does not decline in the period between the signing of the agreement and the date on which the contributions are paid.
96. The method of indexation will be negotiated with the applicant and once agreed, will be specified within the Section 106 agreement. The method will generally be based on the published Retail Price Index (RPI) or an appropriate index published by the Build Cost Information Service (BCIS), which is the responsibility of the RICS. In the event that there is a decrease in the relevant agreed index, the financial contribution payable shall not fall below the figure originally set out within the Section 106 agreement.

Commuted sums or payments in lieu of affordable housing on site

What is a commuted sum?

97. A commuted sum (or payment in lieu) is an amount of money, paid by a developer to the Council. These are only applied:
- a. in designated rural areas on developments with a net gain of 6-9 dwellings but where the site area is below 0.5 hectares
 - b. in exceptional circumstances where the size or scale of a development triggers a requirement for affordable housing, but it is not possible to achieve appropriate affordable housing on site . This route will be followed only where more direct provision of affordable homes has been explored and the Council is satisfied that is not workable given the particular circumstances, subject to the provision of robust and evidenced reasons.
98. The money will be used to provide affordable housing on an alternative site. It is therefore, appropriate that the level of the payment in lieu should relate to how much it will cost an affordable housing provider to buy land on the open market.
99. The principles applied in the collection and use of these payments are very similar to those for other planning obligations. They will generally be dealt with through a legal agreement (under Section 106) related to the land, which triggers obligations once the specific planning permission is implemented.

What is the Council's approach to the use of 'commuted sums'?

100. The revised National Planning Policy Framework¹⁵ states that where a need for affordable housing is identified, "planning policies should... expect it to be met on-site."¹⁶
101. However, where off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities and meeting local housing need, a commuted sum may be considered¹⁷.
102. Off-site delivery via the provision of land may apply where the Council considers that such a contribution, either on the proposed development site or on an

¹⁵ NPPF 2019 [Paragraph 62](#)

¹⁶ Unless the site meets criteria set out in Paragraph 96.a.above

¹⁷ Unless the site meets criteria set out in Paragraph 96.a.above

alternative site, would meet the identified housing needs of the Borough more effectively. Land should be serviced to its boundaries and be of sufficient area to provide the equivalent on-site provision. An appropriate timescale will be applied. Financial contributions may also be sought in addition to land where the site area is insufficient to provide the equivalent on-site provision.

103. Paragraph 62 of the revised National Planning Policy Framework enables the Council to accept a commuted sum, towards the provision of affordable housing on an alternative site where it is not possible to incorporate affordable housing within a scheme. Policy AHN1 also enables the Council to require commuted sums in designated rural areas¹⁸ where the development provides a net increase of 6-10 dwellings.
104. Where a commuted sum is proposed, the onus will be placed on the applicant to demonstrate why it will not be possible to provide the affordable housing on site. The applicant will also need to show that other options – for example cross-subsidy between rented and shared ownership units/other affordable tenures, or providing the affordable housing on another site – have been considered, and why they were not viable.
105. It must be stressed that commuted sum payments are exceptions, and in all cases the decision on whether to accept a financial contribution rather than on-site provision will be the Council's. This is consistent with Policy AHN1 which states "On-site provision of affordable housing will be required and only in exception circumstances will an alternative to on-site provision be considered."

How will the money be used?

106. The Council will use financial commuted sums in a number of ways and will require the flexibility to do so to be reflected in the Section 106 Agreement or Unilateral Undertaking.
107. Affordable housing providers can apply to the Council for commuted sum funding for their schemes; these funds can also be spent on Council new build developments.
108. Commuted sums will be earmarked to enable the provision of affordable housing through a variety of means, for example:
 - a. To support the new build development of affordable housing or create additional, larger or a different tenure mix within the existing stock.

¹⁸ Rural areas described under Section 157 of the Housing Act 1985, which applied to AONB in Waverley.

- b. To provide 'top up' subsidy on schemes in order to make it possible for a higher proportion of affordable homes or to make those homes more affordable.
 - c. To fund extra units of affordable housing on alternative sites and to buy affordable homes from developers.
 - d. To contribute to forward-funding/kick-starting of schemes or to reduce funding gaps within pipeline/current affordable housing schemes or other similar initiatives according to scheme circumstances and the funding climate.
 - e. To convert, refurbish, redevelop or make improvements to existing affordable housing where the accommodation no longer meets an identified need.
 - f. To aggregate financial contributions from different sites and spend contributions in the way that best achieves the Council's and the local community's priorities for affordable housing. The number of units resulting from expenditure may be greater or fewer than the number of units used to calculate the contribution, because dwelling types, tenure, specifications and other aspects will vary from scheme to scheme. Financial contributions may be used to fully fund a project or to top up funding from other sources.
 - g. To spend on alternative sites in Waverley before consideration is given to schemes in the wider area (beyond Waverley), to which the Council receives nomination rights or which benefit Waverley residents.
 - h. Other innovative methods of providing affordable housing.
109. Decisions on the expenditure of financial contributions will be made in accordance with the [Council's Scheme of Delegation to Officers](#), details of which are available on the Council's website.

How is a commuted sum calculated?

110. On sites where a financial contribution is being made, the Council will calculate the payment which seeks to equate to the land value of the relevant dwelling plots (those that would have been made available for on-site affordable housing). In essence the thinking involves calculating how much it would cost to go elsewhere and replace the land on which the affordable housing would have been provided on-site.
111. This approach assumes a straightforward payment made by the landowner (who may also be the developer) under the terms of a Section 106 agreement

in much the same way as occurs with planning obligations for aspects such as highways/transport, open space, education etc.

- 112. The methodology assumes an additional planning obligations payment being made by the developer, albeit from the increased Gross Development Value sales receipts which results from having no affordable housing on-site.
- 113. The final sum agreed will be at the Council’s discretion.

What are the steps in calculating the payment?

- i. Applicant to provide an independent valuation of the Open Market Value of all units on the site, along with the Gross Internal Floor Area¹⁹ in order to calculate the sales rate (£ per sqm). The Open Market Values and Gross Internal Floor Areas must be signed off by a RICS Chartered Surveyor or RIBA member architect.
- ii. Council to agree the type and floor area of a suitable relevant affordable housing dwelling which would otherwise have been provided on site for use in the calculation.
- iii. Multiply by the Residual land value percentage (38.1%) to provide a base land value²⁰.
- iv. Add 15% of the result to reflect site acquisition and servicing costs.
- v. This gives the sum(s) equivalent to the land cost per whole affordable dwelling type(s) or may be more than one level of sum if there are multiple dwelling types being factored into the affordable housing calculation).
- vi. Apply that (or those) to the relevant total scheme numbers and the Council’s 30% affordable housing requirement. In this way, the calculation can deal with part dwelling equivalents. The outcome need not be affected where this end stage does not produce round (whole) dwelling number dwellings.

Table 1 below provides a worked example. The Council will calculate Commuted Sums using the following steps, on receipt of the required valuations.

Table 1: Worked example of commuted sum	e.g.
Scenario= Development of 10 x three bed houses	
Average open market sales value, for a comparable size and type of dwelling in the local area which would otherwise have been provided on site	Open market value of £344,000 for a 3 bed house with a Gross Internal Floor Area of 110m2
Work out Open Market Value per M2	£3,127 per m2 (3,127.273)

¹⁹ Gross Internal Area (GIA) is defined in the RICS: [Code of Measuring Practice 6th Edition \(2007\)](#) as the internal area of a building measured to the inside face of perimeter walls at each floor level, as defined on page 12

²⁰ [Affordable Housing Viability Study, Para 3.9.22](#)

Table 1: Worked example of commuted sum	e.g.
Multiply cost per m ² by 102 for floor area of affordable home with 3 bedrooms	X 102=£318,982
Multiplied by residual land value (38.1%)	X 38.1%= £121,532
Plus 15% of the result (of affordable market value x 38.1%)	+18,230
= payment in lieu per three bed house	=£139,762
Multiplied by 3 (to represent the units/ parts of units which would otherwise have been provided on site) =TOTAL PAYMENT IN LIEU OF £419,286	

How will this be monitored?

114. The Council will keep and monitor a record of all sums agreed and received and how they have been spent.
115. Generally, the Council will expect the following to be incorporated in the S.106 agreement or Unilateral Undertaking:
- a. The agreed sum to be index linked on an annual basis from the date of the Committee resolution on the planning permission until the date of actual payment. S.106 agreements can take time to complete so it will be important for applicants to consider the requirements at an early stage, working closely with the Council. Indexation will be on an annual basis in accordance with the Retail Price Index. This will be by an amount equal to the proportionate upward only change in the All in Tender Price Index of the Building Costs Information Service (BCIS) of the Royal Institution of Chartered Surveyors.
 - b. A milestone that triggers the payment of the contribution will need to be agreed between the Council and the Applicant. Usually this will be the carrying out of any Material Operation or on the commencement of development. Alternatively, it may be 50% on commencement and 50% when 50% of those units have been sold / occupied.
 - c. Applicant to notify the Council when payment trigger is reached.
 - d. On receipt of the notification, the Council will issue an invoice for the amount payable including any indexation.
 - e. Penalty interest will be payable on late payments.

- f. The Council will specify in the Section 106 agreement the time period in which to spend the contribution.

116. All commuted sums received are added to the available resources in the Council's Housing Grant Budget. The 1988 Local Government Act s.25 allows Local Authorities to use grant to fund the provision of affordable housing on new development sites, subject to the appropriate Homes England guidelines in respect of maximum public subsidy.

How will this be managed?

117. The Council will use commuted sums to develop affordable housing within 10 years from the date a sum was received. The Council will return un-spent commuted sums, with accrued interest, set at the current rate (currently set at a rate of 85% per annum above the Bank of England base rate) to the developer, if they are not spent for the purposes for which they were sought within a ten-year period from the date the money is paid to the Council. The Council reserves the right to amend this rate.

118. The approach and assumptions will be monitored and reviewed if necessary, depending on delivery experiences. In any event, the approach is intended to cope with an element of flexibility in its application.

Vacant Building Credit

119. A 'Vacant Building Credit' is available to developers to incentivise them to bring vacant dwellings back into use. Where a vacant building is reused or redeveloped, the affordable housing contribution will be reduced by a proportionate amount²¹.

120. Affordable housing contributions may be required for any increase in floor space.' The Vacant Building Credit applies to on-site affordable housing as well as financial contributions to off-site provision.

What is a Vacant Building?

121. A vacant building must be physically empty (i.e. not used for storage, excluding rubbish left after vacation of the buildings such as broken furniture/ papers etc.).

122. In coming to a view about whether the building is empty, Officers will need to:

²¹ Equivalent to the existing gross floorspace of the existing buildings.

- Consider whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development;
- Consider the reason why the building became vacant and the last known use of the building;
- Consider whether there is an extant planning permission for the development of the building; and
- Establish current uses and extent of vacant areas through a site visit, speaking to Revenues Team and requesting a Statutory Declaration.

123. Vacant Building Credit does not apply where the building has been abandoned. 'Abandonment' in this context follows the interpretation in general planning law. The test is objective and is applied by consideration of the known circumstances. Factors such as the condition of the building, length of non-use, whether there has been an intervening use, and evidence of the owner's intentions, may determine whether a building has been abandoned. The Council may consider that the Vacant Building Credit is not appropriate for buildings which have become vacant solely to enable development to proceed.

How is the Vacant Building Credit calculated?

124. Applicants need to provide an independent valuation including the Gross Internal Floor Area²² and Open Market Value of any vacant building for which they wish to claim Vacant Building Credit, and also for the proposed buildings. The Gross Internal Floor Areas and Open Market Values must be signed off by a RICS Chartered Surveyor or RIBA member architect. Please note that the onus will be on the Applicant to demonstrate to the satisfaction of the Local Planning Authority a building's vacancy and to provide accurate Gross Internal Floor Area measurements.
125. The following example shows how the methodology for calculating affordable housing contributions would be applied to a proposed development. This is for illustrative purposes only and should not be relied upon for calculation purposes.
126. The existing vacant Gross Internal Area of any buildings proposed to be brought back into lawful use or to be demolished and redeveloped will be calculated as a percentage of the proposed Gross Internal Area, leaving the net increase in floor space. The required percentage of affordable housing will then be applied only to the net increase in floor space.

²² Gross Internal Area (GIA) is defined in the [RICS: Code of Measuring Practice 6th Edition \(2007\)](#) as the internal area of a building measured to the inside face of perimeter walls at each floor level

Element	Represented by/ units	Worked Example
Existing vacant floor space	A sq m	300 sq m
Proposed total floor space of new development	B sq m	Mixed use development providing 40 units 2,400sq m
Net increase in floor space (B-A)	C sq m	2,400sq m- 300 sq m= 2,100sq m
30% affordable housing required under Policy AHN1	D affordable homes usually required under planning policy	30% of 40 units is 12 affordable homes usually required
Calculation for affordable housing after Vacant Building Credit	$\frac{C}{B} \times D = E$	$\frac{2,100}{2,400} \times 12 = 10.5$ affordable homes Required after VBC
Resulting Affordable Housing Requirement	E	10.5 affordable homes required ²³

²³ E.g. 10 affordable homes on site and 0.5 via commuted sum

Glossary

Affordable Housing: For the purposes of this Supplementary Planning Document and in accordance with the Waverley Borough Council Local Plan Part 1, the Council's definitions of 'affordable housing, affordable housing for rent, starter homes, discounted market sales housing and other affordable routes to home ownership' are defined in Annex 2 of the revised National Planning Policy Framework (NPPF) or any future guidance that replaces it.

Amenity: A positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them, or less tangible factors such as tranquillity.

Area of Outstanding Natural Beauty (AONB): A statutory landscape designation, which recognises that a particular landscape is of national importance. The primary purpose of the designation is to conserve and enhance natural beauty of the landscape.

Development Plan: The adopted suite of documents, which set out the parameters for all development in the Borough.

Enabling Development: A development that would normally be rejected as contrary to established policy, but which may be permitted because the public benefits would demonstrably outweigh the harm to other material interests.

Homes England: Homes England is the Government's national housing and regeneration agency for England. It provides investment for new affordable housing and to improve existing social housing, as well as for regenerating land. It is also the regulator for social housing providers in England.

Waverley Borough Council Local Plan Part 1: The new Local Plan is the overarching planning document for Waverley Borough and replaces the previous Local Plan and relevant Development Control Policies documents which were adopted in 2002. The new Local Plan sets out the planning strategy for the years up to 2032 to deliver the social, economic and environmental needs of the whole Borough, as well as looking beyond the Borough's boundaries.

Local Plan: A plan for the future development of a local area, drawn up by the local planning authority in consultation with the community. In law, this is described as the development plan document adopted under the Planning and Compulsory Purchase Act 2004. A local plan can consist of either strategic or non-strategic policies or a combination of the two.

Material consideration: A matter that should be taken into account in deciding a planning application or on an appeal against a planning decision.

National Planning Policy Framework (NPPF): The key document, introduced in March 2012 and last updated in February 2019, setting out Government policy in relation to planning in England. The NPPF is part of the Government's reforms to make the planning system less complex, more accessible and to promote sustainable growth.

Open market value: The value a property might reasonably fetch if sold on the open market where there is a willing buyer and a willing seller.

Planning Obligation: A legal agreement entered into under section 106 of the town and Country Planning Act 1990 to mitigate the impacts of a development proposal.

Section 106 Agreement: See '*Planning Obligation*'

Shared Equity: The purchaser acquires the whole of the property but effectively only pays a proportion of the value; the remaining value is secured by an equity loan. There have been, and are a variety of schemes available, some with Government support.

Shared Ownership: Shared ownership is a mechanism for purchasing a property for those who cannot afford full home ownership. A percentage of the equity is purchased by means of deposit and mortgage. The retained equity is held by an Affordable Housing Provider (or similar). The owner takes out a lease, and pays rent on the retained equity. Generally initial purchases are 25-40% of the equity. Owners can usually purchase further shares of the property over time – this is known as “staircasing”.

Supplementary Planning Documents (SPD): Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

Viability: In planning terms relates to the assessment of a development scheme to establish that favourable conditions regarding the financial aspects will enable development to proceed.

Appendix 1- Affordable Housing Plan

The Affordable Housing Plan should generally meet the requirements outlined below. It is anticipated that the Developer and Affordable Housing Provider will submit the Affordable Housing Plan jointly. It is agreed by the parties that where any of the information required below is not available at the time of submitting the Affordable Housing Plan, such information shall be submitted or re-submitted (where an amendment is required) for approval prior to commencement of construction of any affordable housing unit within the relevant phase:

1.	The total number of affordable units in the phase as a percentage of the total units in the phase	
2.	The anticipated tenure, bed size, gross internal floor area and type of each of the affordable units	
3.	A site layout plan showing the location, tenure and bed size of the units	
4.	Plans showing the indicative internal layout of each type of unit	
5.	Confirmation that Affordable Housing Units shall be constructed in accordance with building regulations applicable at the time of registration of the Development with the relevant body	
6.	Name of Affordable Housing Provider that will deliver the affordable units with contact person	
7.	Confirmation that all of the units will be allocated either according to the draft Nomination Agreement set out in the Section 106 Agreement, or through the Home Buy Agent	
8.	Details of proposed shared ownership share % and service charge for each type of unit	
9.	Confirmation that Affordable rents set no higher than current Local Housing Allowance rates in the Borough or 80% of market rent (including service charges), whichever is the lower; whenever possible	
10.	Details of management arrangements.	

Appendix 2- Financial Viability Appraisals

Any Development Viability Appraisal submitted in support of a developer's case for reviewing or reducing planning obligations identified as necessary by the Council, should contain the following information and data as a minimum.

All information and data should be evidenced from an independent RICS-qualified expert or a reliable and reputable source in relation to secondary data.

Figures included within the appraisal should be benchmarked.

1. Methodology used for the appraisal and details of any appraisal software or toolkits used.	
2. Land values, both current and at the time of purchase (if different)	
3. Price paid for the land; & costs taken into account when arriving at the price paid for the land (if the land is not owned by the applicant – details of any option agreements or agreements to purchase)	
4. Gross and net area of development	
5. Number size and type of units	
6. Build costs (per square metre)(and comparison with appropriate published RICS data)	
7. Abnormal or exceptional costs not reflected in the land value/price (Note: All abnormal and exceptional development costs should be supported by robust and costed specialist reports, including full technical data to support the stated costs)	
8. Costs associated with bringing a heritage asset back into beneficial use or enabling development and/or costs of repairs (Note: all such costs should be supported by robust and costed specialist reports, including full	

technical data to support the stated costs)	
9. Other costs (design, legal, consultants, planning etc.)	
10. Cost of any other planning obligations including infrastructure requirements and financial contributions	
11. Build programme and phasing	
12. Interest rates, cap rates, loan costs, cash flows	
13. Developer's profit and an explanation of its make up, and any company or financiers requirements	
14. Anticipated phasing	
15. Marketing and legal costs (and as a % of GDV)	
16. Anticipated sales price for each unit type, and current assumed value of each unit type	
17. Anticipated phasing of sales	
18. Ground rents and services changes payable	
19. Proposals for on-site affordable housing meeting the requirements of the Supplementary Planning Document, modelling a range of scenarios i.e. <ul style="list-style-type: none"> a. 20% and 30% affordable housing, b. 70% affordable rent/ 30% intermediate, c. 50% affordable rent/ 50% intermediate d. 100% intermediate, including shared equity products. 	
20. Attach evidence of engagement with affordable housing providers	

21. Anticipated price to be paid by the affordable housing provider, and the assumption on which this is based.	
22. Substitution values and revenues for less or no affordable housing on site	

Depending on individual site circumstances, further information may be required, including:

23. Developer's Market Analysis Report	
24. Details of company overheads	
25. Copy of financing offer/letter	
26. Copy of cost plan	
27. Board Report on scheme	
28. Letter from Auditors re: land values and write offs	
29. Sensitivity analysis showing different assumption options (e.g. low, medium & high)	
30. For mixed use schemes similar information and data will be required on the non-residential uses.	

Appendix 3 - Template Affordable Housing Schedule 106 Agreement

1. Definitions

It is hereby agreed between the parties to this Deed that the following expressions have the following meanings:

“Act”	means the Town and Country Planning Act 1990 as amended;
“Affordable Housing”	means housing for sale or rent for those whose needs are not met by the market and which complies with the definition of Affordable Housing in Annexe 2 of the National Planning Policy Framework as the same may be amended by time to time;
“Affordable Housing Plan”	means the Affordable Housing Plan showing the location, type, bed size and tenure mix of the Affordable Housing Units within the Development;
Affordable Housing Provider	means a registered provider of social housing within the meaning of Section 80(1) of the Housing and Regeneration Act 2008, or alternatively a body providing Affordable Housing, in both cases selected by the Owner and approved such consent not to be unreasonably withheld or delayed by the Borough Council;
“Affordable Housing Units”	means [] units being []% of the Dwellings to be provided as Affordable Housing in accordance with Part 1 of Schedule 1 to this Deed and Affordable Housing Unit shall be construed accordingly;
“Affordable Rented Units”	means the Affordable Housing Units provided to households who are eligible for affordable rented housing, and provided at a rent of no more than 80% of the local market rent (including service charges) and always below the Local Housing Allowance and where local market rents are calculated using the Royal Institution of Chartered Surveyors approved valuation methods;

“Application for Planning Permission”	means the [full/outline] application dated [] given planning reference number WA[] with a description of the Development for the erection of [];
“Application Site”	means the land at [] being all parts of the land as shown edged red on the Plan and registered at the Land Registry under Title Number(s) [];
“Borough Council Contributions”	means those contributions that are payable to the Borough Council namely the [Community Facilities Contribution, the Environmental Enhancement Contribution, the Leisure and Sports Contributions, the SAMM Contribution, the SPA Contribution and the Waste and Recycling Contribution]together;
“CIL Regulations”	means the Community Infrastructure Regulations 2010 as amended;
“Commencement Date”	means the date of Commencement of Development;
“Commencement of Development”	<p>means the carrying out of a Material Operation in respect of the Development and the words “Commence Development” and “Development Commences” shall be construed accordingly and in accordance with Section 56 (1) of the Act where the development consists of:-</p> <ol style="list-style-type: none"> a. the carrying out of operations the commencement will be when those operations are begun b. a change of use the commencement will be when the new use is implemented c. both carrying out of operations and change of use the commencement will be the earlier of the times in paragraphs (a) and (b) above;
“Community Facilities Contribution”	means a sum of £[] ([]) to be paid to the Borough Council as a contribution towards [];
“County Council Contributions”	means those contributions that are payable to the County Council namely [the Early Years Education Contribution, the Highways Improvements Contribution, the Primary Education

	Contribution, the Secondary Education Contribution and the Transport Contribution] together;
“Cycle and Public Transport Vouchers”	[];
“Cycleway”	[];
“Deed”	means this document when it is duly executed, dated and delivered;
“Default Interest Rate”	means eight per centum (8%) per annum above the Bank of England Base Rate;
“Development”	means the development of the Application Site pursuant to the Planning Permission;
“Disposal”	means a disposal of the Affordable Housing Units to an Affordable Housing Provider whether by transfer of the freehold or the grant of a long lease for a term of at least 125 years and “Dispose” shall be construed accordingly;
“Dwelling”	means a residential unit to be constructed on the Application Site pursuant to the Planning Permission and “Dwellings” shall be construed accordingly;
“Early Years Education Contribution”	means the sum of £[] ([]) to be paid to the County Council as a contribution towards the provision of [];
“Environmental Enhancement Contribution”	means the sum of £[] ([]) to be paid to the Borough Council as a contribution towards the provision of [];
“Estate Roads and Footpaths”	means the roads, footways, footpaths, car parking spaces and cycle ways that are provided on the Application Site and which fall outside the boundaries of Dwellings and which are not intended to be adopted by the Highway Authority as a highway maintainable at the public expense as shown [indicatively] on the Site Allocation Plan;
“First Occupation”	means the beneficial occupation of any Dwelling for any use for which the proposed Development was designed other than occupation for the purposes of construction or fitting out marketing or security;
“Highways Agreement”	means an agreement under section 278 of the Highways Act 1980 as amended;

“Highways Improvement Contribution”	means the sum of £[] ([]) to be paid to the County Council as a contribution towards the provision of the Highway Works;
“Highway Works”	means [];
“Index”	means All Items Index of Retail Prices issued by the Office for National Statistics;
“Index-Linked”	means that with reference to the Borough Council Contributions and the County Council Contributions the payment of such sums shall be uplifted to the extent of being Index-Linked by reference to the Index in accordance with the formula set out at Schedule 4 of this Deed;
“Inspector”	means a person appointed by the Secretary of State or PINS by virtue of the Act to hear and/or determine the Planning Appeal;
“Landscape Ecological Management Plan (LEMP)”	means a written scheme setting out the method for the ongoing management of [];
“LAP”	means the local area play as defined by the National Playing Fields Association as shown [indicatively] on the Site Allocation Plan;
“LEAP”	means the locally equipped area of play as defined by the National Playing Fields Association as shown [indicatively] on the Site Allocation Plan;;
“Leisure and Sports Contribution”	means a sum of £[] ([]) to be paid to the Borough Council of as a contribution towards the provision of [];
“Local Housing Allowance”	means the housing benefit scheme based on private market rents being paid by tenants in the broad rental market area (the area within which a person might reasonably be expected to move by the Borough Council) and which do not exceed the maximum local housing allowance (or whatever benefit scheme is in place from time to time) and as set by the Valuation Office Agency for the area of the Borough Council;
“Managed Land”	means the Estate Roads, the LAP, the LEAP, the Open Space and the SUDS;
“Management Company”	means a limited company set up amongst other things for the purpose of

	securing the future management and finance for such management of the Managed Land in perpetuity through adherence to a Management Plan;
“Management Plan”	<p>means a written scheme submitted to the Borough Council which demonstrates the method by which the Managed Land will be managed maintained and financed so as to fulfil the following objectives:</p> <ol style="list-style-type: none"> a. to ensure that each lessee/owner of the Dwellings pays a reasonable service charge for the maintenance and management of the Managed Land in accordance with the Management Plan; b. to ensure that sufficient funds are raised from time to time to ensure that the requirements of the Management Plan are fully funded and thereafter adhered to; and c. to provide a means by which the Borough Council may verify compliance with the Management Plan;
“Material Operation”	<p>means a material operation pursuant to the Planning Permission on the Application Site pursuant to Section 56(4)(a)-(e) of the Act provided that for the avoidance of doubt a Material Operation shall be deemed not to have taken place for the purposes of this Deed by any surveying ground investigation archaeological investigations structural or advanced planting site clearance and decontamination works site preparation including earth moving laying and connection of sewers and services the formation of accesses the erection of fences and hoardings and the creation of a site compound. The undertaking of a Material Operation is considered to be the Commencement of Development pursuant to the Planning Permission;</p>

<p>“Nomination Agreement”</p>	<p>means an agreement between the Borough Council and the Affordable Housing Provider under which the Borough Council exercises its right to nominate prospective tenants or lessees for the Affordable Housing Units in accordance with Part VI of the Housing Act 1996 section 159 and the Homelessness Act 2002 the final form of which reflects the tenure and mix of Affordable Housing agreed pursuant to the Affordable Housing Plan;</p>
<p>“Occupation”</p>	<p>means in respect of each Dwelling its first occupation excluding occupation for the purposes of construction marketing or security and the words “Occupy” and “Occupied” shall be construed accordingly;</p>
<p>“Open Market Units”</p>	<p>means those Dwellings which are not Affordable Housing Units;</p>
<p>“Open Space”</p>	<p>means the areas of public open space to be provided on the Application Site as part of the Development as shown [indicatively] on the Site Allocation Plan and “Open Spaces” shall be construed accordingly;</p>
<p>“Open Space Specification”</p>	<p>means the full technical specification for the laying out of the Open Space including its location, size, materials and all other relevant details necessary for its provision;</p>
<p>“Planning Appeal”</p>	<p>means the appeal by the [] under section 78 of the Act from the refusal of the Application for Planning Permission by the Borough Council with planning appeal reference [];</p>
<p>“Planning Permission”</p>	<p>means the planning permission granted pursuant to the Application for Planning Permission;</p>
<p>“PINS”</p>	<p>mean the Planning Inspectorate;</p>
<p>“Protected Tenant”</p>	<p>means any tenant who:</p> <ul style="list-style-type: none"> a. has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or

	<p>b. has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or</p> <p>c. has been granted a shared ownership lease by a Affordable Housing Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Affordable Housing Provider) and the tenant has subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;</p>
“SAMM”	means the sum of £[] ([]) to be paid to the Borough Council towards site access management and monitoring measures relating to the SPA in accordance with the SPA Avoidance Strategy;
“SANG”	means the existing suitable alternative natural green space at Farnham Park, Surrey;
“SANG Contribution”	means the sum of £[] ([]) to be paid to the Borough Council as a contribution in respect of the SANG;
“Secondary Education Contribution”	means the sum of £[] ([]) to be paid to the County Council as a contribution towards the provision of [];
“Shared Equity Units”	means the Affordable Housing Units to be provided by a Affordable Housing Provider where the Affordable Housing Provider disposes of the freehold or long leasehold interest in the relevant unit at a discounted price to the market value of the Affordable Housing Unit and retains a legal charge to protect the discounted share;
“Shared Ownership Lease”	means a lease to be granted for each Shared Ownership Unit for a term of not less than 125 years which shall accord with the requirements of, and be consistent with any model shared ownership lease as approved from time

	to time by Homes England (or any statutory successor)
“Shared Ownership Lessee”	means the tenant of a Shared Ownership Lease;
“Shared Ownership Units”	means the Affordable Housing Units to be provided by a Affordable Housing Provider by way of a Shared Owner Lease granted to eligible households whose needs are not met by the market, where the percentage equity share to be marketed and the percentage rent payable under retained equity is agreed in writing between the Borough Council and the Affordable Housing Provider before the Affordable Housing Units are marketed to the public;
“Site Allocation Plan”	means the plan annexed to this Deed at Schedule 4 headed “Site Allocation Plan”;
“Site Layout Plan”	means the plan annexed to this Deed at Schedule 4 headed “Site Layout Plan” showing the Application Site edged red;
“Social Rented Housing”	means the Affordable Housing Units provided by Affordable Housing Providers to households who are eligible for social rented housing, and for which guideline target rents are determined through the national rent regime;
“SPA”	means the Thames Basin Heath’s Special Protection Area classified as a special protection area in accordance with Article 4 of the European Commission Directive on the conservation of wild birds (79/409/EEC) on 9 March 2005 and given site code: UK9012141;
“SPA Avoidance Strategy”	means the strategy jointly formulated by the Surrey Local Authorities and adopted by the Borough Council with regard to the SPA and as varied in August 2016;
“Sustainable Drainage System (SUDs)”	means any drainage system, including ponds, cellular storage, swales and package waste water treatment plants, to be installed operated and maintained within the Application Site as part of the Managed Land which is not to be offered up for adoption as maintainable at the public expense and which conforms to national standards to be used partly to

	manage surface water runoff in accordance with Schedule 3 to the Flood and Water Management Act 2010 as amended as shown [indicatively] on the Site Allocation Plan;
“Travel Plan”	means [];
“Travel Plan Monitoring Contribution”	means the sum of £[] ([]) to be paid to the County Council as a contribution towards the future auditing monitoring and management of the Travel Plan;
“Waste and Recycling Contribution”	means a sum of £[] ([]) to be paid to the Borough Council as a contribution towards the provision of waste and recycling containers for the Application Site.

COVENANTS WITH THE BOROUGH COUNCIL

Part 1: Affordable Housing

The Owner covenants with the Borough Council:

1. Timetable

1.1. To submit the Affordable Housing Plan to the Borough Council for its agreement prior to the Commencement of Development.

1.2. To carry out the Development and provide the Affordable Housing Units in accordance with the Affordable Housing Plan and the following tenure mix:

	Affordable Rented	Social Rented	Shared Ownership/Shared Equity	Total
1 bed flat				
2 bed flat				
2 bed house				
3 bed house				
Total				

2. Use of Affordable Housing Units

2.1. Unless otherwise agreed with the Borough Council and subject to Schedule 1 Paragraph 4 the Affordable Housing Units shall not be used other than for Affordable Housing.

3. **Standard of the Affordable Housing Units**

3.1. The Affordable Housing Units shall be built in accordance with the quality and design standards current at the time of construction.

4. **Completion of the Affordable Housing Units**

4.1. Unless otherwise agreed in writing with the Borough Council, the Affordable Housing Units shall be Occupied pursuant to the provisions of the Nomination Agreement.

4.2. None of the Affordable Housing Units shall be occupied until an Affordable Housing Provider has entered into the Nominations Agreement with the Borough Council.

4.3. Not to permit nor enable more than 50% of the Open Market Units to be in Occupation until the date upon which the Owner or their successors in title have transferred (or entered into an unconditional contract for the transfer) the Affordable Housing Units (either a freehold or leasehold interest for a term of not less than 125 years) to the Affordable Housing Provider.

4.4. Not to permit nor enable more than 75% of the Open Market Units to be occupied until the Affordable Housing Units have been practically completed in accordance with the Planning Permission and made ready for residential Occupation.

4.5. Subject to the provisions of this paragraph the Affordable Housing Units shall remain as Affordable Housing save that the obligations in this Deed relating to the provision and/or use of the Affordable Housing Units (including but not limited to the obligations set out in this Schedule) shall cease to apply in respect of and not be binding or enforceable against:

4.5.1. any Protected Tenant or any mortgagee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or

4.5.2. any mortgagee or chargee or security trustee of the Affordable Housing Provider or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or its successors in title or any person deriving title from therefrom ("**Chargee**

of a Affordable Housing Provider”) who has first complied with its duty under paragraph 4.6 below.

4.6. Any Chargee of a Affordable Housing Provider shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its mortgagee or charge give not less than 1 month prior to the Borough Council of its intention to dispose and:

4.6.1. shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its mortgage of charge shall give not less than four weeks prior notice to the Borough Council of its intention to dispose and;

4.6.2. in the event that the Borough Council responds within four weeks from receipt of the notice served under paragraph 4.6.1 indicating that arrangement for the transfer of the relevant Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee of an Affordable Housing Provider shall co-operate with such arrangements and use reasonable endeavours to secure such transfer PROVIDED THAT such arrangements shall not require the Chargee of an Affordable Housing Provider to dispose of its interest in the relevant Affordable Housing for a sum less than the total of all accrued principal monies interest and costs;

4.6.3. If the Borough Council does not serve it response to the notice served under paragraph 4.6.1 within four weeks then the Chargee of an Affordable Housing Provider shall be entitled to dispose free of the restrictions set out in this Schedule which shall cease to apply and determine absolutely

4.6.4. If the Borough Council or any other person cannot within eight weeks from the date of service of its response to the notice served under paragraph 4.6.1 complete such transfer then provided that the Chargee of an Affordable Housing Provider shall have complied with its obligations under this paragraph 4.6 the Chargee of an Affordable Housing Provider shall be entitled to dispose free of the restrictions set out in this Deed (including, but not by limitation of this Schedule) which shall from the time of completion of the transfer cease to apply and determine absolutely.

AND FURTHER PROVIDED THAT at the time the rights and obligations in this paragraph 4.6 shall not require the Chargee of an Affordable Housing Provider to act contrary to its duties under the charge or mortgage and the Borough Council must give full consideration to protecting the interest of the Chargee in respect of all monies and interest outstanding and relates costs under the charge or mortgage.

Housing Supplementary Planning Document Consultation Statement – March 2020

1. Waverley Borough Council has prepared a Supplementary Planning Document (SPD) in relation to design and sustainability considerations in order to guide development within the borough. The SPD provides more detailed advice and guidance concerning the relevant policies within the adopted Local Plan (2018 – 2032), and once adopted will be used as a material consideration for planning applications determined within the borough.

Purpose of the Consultation Statement

2. Part 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires that, when adopting a Supplementary Planning Document, Local Planning Authorities (LPA) should prepare a Consultation Statement. This should include the following information:
 - (i) The persons the local planning authority consulted when preparing the supplementary planning document;
 - (ii) A summary of the main issues raised by those persons; and
 - (iii) How those issues have been addressed in the Supplementary Planning Document.

Regulations

3. The Local Plan Regulations set out that LPAs should make the document 'available' for a minimum of four weeks. During such time, the document should be made available for inspection at the council offices and other appropriate locations, and should be published on the local planning authority website.
4. Regulation 13 states that any person may make representations about the SPD and that the representations must be made by the end of the consultation date referred to in Regulation 12.
5. As set out in Regulation 12 when seeking representations on an SPD documents must be made available in accordance with Regulation 35; which requires the Council to make documents available by taking the following steps:
 - (i) Make the document available at the principal office and other places within the area that the Council considers appropriate;
 - (ii) Publish the document on the Council's website.

Affordable Housing SPD

6. The adopted Local Plan provides the overarching strategic policies for the provision of housing. The aim of the Affordable Housing SPD is to provide additional guidance on how the affordable housing policies in the Local Plan will be implemented. The SPD contains information on the various affordable housing products (such as rented homes, shared ownership and discounted ownership); design of affordable housing; local need; specialist housing and self-build.

Consultation

7. The draft Housing SPD was published for public consultation between 9th November and 14th December 2018 and views were sought on the draft. A second stage of consultation took place 1st July to 12th August 2019.

Who did we consult?

8. The Council sought the views of a sample of key consultees including developing housing associations, private developers, Parish Councils, planning officers, housing officers and councillors.

What issues were raised?

- Housing viability calculations
- Quality and Design standards
- Space standards
- Fix-term tenancies
- Car parking standards
- Commuted sums
- Implications of Community Infrastructure Levy (CIL)
- Rent levels – reference to rent capped at Local Housing Allowance (LHA)
- Rent levels – reference to a requirement for lower or ‘social’ rent
- Shared ownership – entry level and rent on unsold enquiry
- Rural exception sites
- Affordable Housing Plan
- Compatibility with National Planning Policy Framework (NPPF) 2018
- Housing mix

How the issues were addressed

9. Following the consultation the SPD has been amended to address the issues raised. The representations and Council’s response are set out in Appendix 1.

Appendix A – Draft Affordable Housing Supplementary Planning Document
Final Consultation July – August 2019

Detailed comments and Waverley Borough Council's response.

Comment Received from	Detailed Comment	WBC response
<p>Chiddingfold Parish Council</p>	<p>This council welcomes the proposals of the SPD and the policies therein, affordable housing supply is an ongoing need that this council recognises and our residents are concerned about.</p> <p>For this reason the SPD is seen as a positive one, however the council is concerned about the option for developers to 'buy-out' of the affordable homes provisions and the impact this may have on affordable housing supply.</p> <p>This council wishes to see tight controls on the use of such options and that there will be robust enforcement of the policies proposed to ensure that anticipated affordable housing is brought forwards.</p>	<p>The Local Plan was adopted in February 2018.</p> <p>Policy AHN1: Affordable Housing on Development sites, refers specifically to this issue and will be robustly enforced.</p>
<p>Hambledon Parish Council</p>	<p>Hambledon Parish Council has for many years supported the policy of providing affordable housing and has actively sought to achieve this within the village. This policy has been endorsed by its residents and is clearly stated in the Hambledon Parish Plan.</p> <p>This has included giving careful consideration and, where appropriate, its backing to affordable housing schemes within the parish.</p> <p>It notes that a recent scheme at Orchard Farm was supported by Waverley council planning officers, and had the approval of Hambledon Parish Council, yet was rejected by Waverley members.</p> <p>Waverley Borough Council states that it will require 30 percent affordable</p>	<p>As stated policy AHN2 specifically refers to rural exception sites.</p> <p>Officers will continue to support appropriate schemes when they come forward.</p>

Comment Received from	Detailed Comment	WBC response
	<p>housing on all housing developments. This must be followed up by active and effective planning measures and enforcement by Waverley if, at a later stage, developers attempt to reduce this percentage.</p> <p>In small, rural villages like Hambledon, within the Green Belt and the Surrey Hills AONB, it is unlikely that a site suitable for housing and of such a size for the 30 per cent rule to apply, will become available.</p> <p>It is important, therefore, for Waverley officers and members to understand that it is more likely that a small site may become available which would be suitable for affordable housing only, or in the main. Orchard Farm was one such example and yet was, as already stated, rejected.</p> <p>Hambledon Parish Council notes that the new strategy, in the section dealing with Rural Exception Sites (AHN2), confirms the policy of permitting small affordable developments to be built within an AONB, subject to certain conditions. 2</p> <p>Hambledon Parish Council would like Waverley Borough Council to consider these points in the next phase of the process.</p>	
Busbridge Parish Council	Busbridge Parish Council have read this draft document and consider it a sensible approach so long as it features, in practice, sufficient teeth to enforce the policy.	WBC will robustly enforce all policies contained within the Local Plan.
Natural England	No comment	
A2 Dominion Developments	Firstly, it would have been useful to see the draft S106 and Nomination Agreements which are to be appended to the document, will these be circulated for comment prior to the adoption of the SPD?	Draft Section106, Nomination Agreements and Mortgagee in Possession (MIP) clause will

Comment Received from	Detailed Comment	WBC response
	<p>There is a requirement now for RP's to have Mortgagee in Possession Clauses added into Nomination Agreements as well as S106 agreements and it would be beneficial to be able to comment on the draft wording.</p> <p>In relation to the equity share which is specified at 25% - 40% of a shared ownership property, the share is dictated by what a person can afford having undertaken an affordability assessment so we feel it would be appropriate to reference equity share in line with the Homes England affordability assessment.</p> <p>We note that the document refers to the housing mix specified in the Council's SHMA which is dated 2015, it is suggested that a broader range of household size is included to offer more flexibility in the provision.</p> <p>Furthermore the document at Paragraph 72 on Page 20 refers to clusters of no more than 10, when considering smaller units clusters of no less than 15 would be preferred from a management perspective and this is considered appropriate in other Boroughs.</p>	<p>be appended to the document.</p> <p>Added</p> <p>Noted – the SHMA provides robust evidence</p> <p>The document states 'depending on the scale of development' which gives sufficient flexibility.</p>
Planning Potential	<p>AHN1 – include relevant extracts in SPD</p> <p>Viability</p> <p>Quality & Design</p> <p>National Planning Policy Framework</p>	<p>AHN1 appended to SPD as appendix 5</p> <p>Noted</p> <p>Noted</p> <p>Noted and amended</p>
Haslemere Community Land Trust	<p>Our comments on the guidance are as follows:</p>	<p>Noted</p>

Comment Received from	Detailed Comment	WBC response
	<p>Paragraphs 38 & 39 requires that the section 106 agreement includes provisions to ensure that affordable housing is not lost through future sale. Since property held by a Community Land Trust is subject to an asset lock, affordable dwellings held by HCLT would be safeguarded for the future.</p> <p>HCLT may be able to assist developers to ensure the provisions of paragraph 39 are achieved. Paragraph 41 requires that “the council will normally require 100% of nomination rights on all initial lettings/shared ownership...”. HCLT initiated a housing need survey in July 2018 it is possible that this has identified individuals who are not on the housing register. We believe HCLT should have nomination rights over any affordable housing that it develops.</p> <p>We note that in paragraph 52 it is acknowledged that while a CLT may not meet the criteria to be one of Waverley’s “preferred affordable housing providers” it may be considered an appropriate entity to deliver a “genuine community-led development”. We welcome this endorsement of the role CLT’s can play in affordable housing delivery.</p>	
Highways England	No comment	
Jupe & Williams	The tone of the policy prioritises establishing the attainment of local housing target rather than meeting local housing needs.	The document refers to social rent, which fully meets housing need, as well as affordable rent
Thakeham Homes	<p>Clause 32: has the Council sought and obtained agreement from its RP partners for the form of Mortgagee in Possession (MIP) clause proposed.</p> <p>Clause 33 & 34: referencing an Affordable Housing Plan in the Section 106.</p>	<p>MIP attached as appendix</p> <p>Noted – document amended</p>

Comment Received from	Detailed Comment	WBC response
	<p>Clause 37: occupation of open market units in relation to completion of AH units.</p> <p>Clause 39: maintaining affordable housing in perpetuity</p> <p>Clause 57: the percentage of shared ownership target should be increased from 30% to 40%</p>	<p>Noted – no change</p> <p>Noted – no change</p> <p>Noted – no change</p>
Farnham Town Council	<p>Clause 39: how is this enforced?</p> <p>Clause 40: Recycling of receipts</p> <p>Clause 47: Viability</p> <p>Clause 52: affordable housing providers</p> <p>Clause 55: Percentage of market value for affordable homes</p> <p>Clause 58: Affordable housing target of 30% on site</p> <p>Clause 68: Service and management charges</p> <p>Clause 69: Shared ownership marketing</p> <p>Clause 73: Space standards</p> <p>Clause 79: Viability</p>	<p>Through Section 106</p> <p>Noted</p> <p>Viability representations are assessed by a qualified professional body.</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Considered on a case by case basis</p> <p>Noted</p> <p>Noted – national space standards</p> <p>As above</p>

Comment Received from	Detailed Comment	WBC response
	Clause 83: Viability	As above
Godalming Town Council	<p>Not sufficient reference to 'social rented housing'</p> <p>Specific proportion of housing should be set aside for 'social rented'</p> <p>Use of stronger language – multiple examples</p>	<p>The document refers to social rent, which fully meets housing need, as well as affordable rent. Where possible the Council will seek to maximise the percentage of social rent through Section 106 agreements, within viability constraints</p>
Witley Parish Council	<p>Paragraph 2: Housing Register</p> <p>AHN1: 30% affordable housing requirement</p> <p>AHN2: definition of 'closely related to'</p> <p>Clause 41: nomination rights</p> <p>Clause 43: Right to Buy agent</p> <p>Clause 55: percentage of market value for affordable homes</p> <p>Clause 57: Affordable housing target</p>	<p>The majority require rented accommodation.</p> <p>Amended to include 'minimum'</p> <p>Noted</p> <p>Noted – standard clause, no change</p> <p>Noted – Government appointed</p> <p>Noted – this is calculated on a percentage basis</p> <p>Noted – yes (question around social rent /</p>

Comment Received from	Detailed Comment	WBC response
	Clause 63: rent levels and affordability	locally affordable rent) Noted – WBC will seek rent at levels not above benefit cap on larger properties
Cranleigh Parish Council	The Council is happy with the separate trigger points in the legal agreement for the delivery of market and affordable housing. The Council welcomes the SPD but has concerns about the ability to monitor the loss of affordable housing as a result of right to buy and staircasing to 100%	Noted Noted
Tetlow King	Amend paragraph 57 to include specific reference to the Rentplus product	Para 57 references NPPF 2019, which includes all Home Ownership products.
Lyla Alleman	Excellent document but a timetable for delivery of adequate numbers of affordable homes in the area is what most people wish to know about	Timetable of affordable housing delivery to be made available on the Council's website
Daniel Lake	Thank you for contacting me concerning AHDPD. Please note I would like to log a formal objection to the document on all counts. The policy, like the LLP1, will do little to nothing improve the lives of people of the area. It stands only to deepen the pockets of developers who will sell to the highest bidder. I have been a long-standing member of the Right To Build scheme of Waverley Council, in the last five years it has done nothing to help me or anyone else on that list; this policy only deepens my	This response relates to Custom and Self Build whilst the consultation document concerns the implementation of the Affordable Housing policies contained within Local Plan Part 1. The Affordable Housing SPD

Comment Received from	Detailed Comment	WBC response
	<p>concern with the local governments wholly inadequate delivery of change to UK laws to promote the Right To Build Scheme.</p>	<p>only deals with affordable housing provision whereas custom and self-build is a separate matter and is dealt with the Local Plan Part 2 and the custom and self-build register.</p> <p>The council is assessing the requirement for a Custom and Self-build policy in relation to the development of Local Plan Part 2.</p> <p>Any subsequent consultation for the adoption of Local Plan Part 2 will provide an opportunity for comment on this particular topic. Comments noted.</p> <p>WBC believes the policy will assist affordable housing as it:</p> <ul style="list-style-type: none"> (i) Sets out minimum of affordable housing required on each site (ii) Insists on the requirement for a viability assessment in

Comment Received from	Detailed Comment	WBC response
		<p>cases where the applicant states that no affordable housing is possible</p> <p>(iii) Clarifies that rent levels must be affordable for local people.</p>

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