

To: All Members of the EXECUTIVE

When calling please ask for:

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Date: 26 August 2022

**Membership of the Executive**

Cllr Paul Follows (Chairman)  
Cllr Peter Clark (Vice Chairman)  
Cllr Andy MacLeod  
Cllr Penny Marriott  
Cllr Mark Merryweather

Cllr Kika Mirylees  
Cllr Nick Palmer  
Cllr Paul Rivers  
Cllr Liz Townsend  
Cllr Steve Williams

Dear Councillors

A meeting of the EXECUTIVE will be held as follows:

DATE: TUESDAY, 6 SEPTEMBER 2022

TIME: 6.00 PM

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,  
GODALMING

The Agenda for the Meeting is set out below.

Yours sincerely

ROBIN TAYLOR  
Head of Policy and Governance

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## **NOTES FOR MEMBERS**

Contact Officers are shown at the end of each report and members are welcome to raise questions, make observations etc. in advance of the meeting with the appropriate officer.

**Prior to the commencement of the meeting, the Leader, Deputy Leader or an appropriate Portfolio Holder to respond to any informal questions from members of the public, for a maximum of 15 minutes.**

*[Questions will be taken in the order in which questioners register with the Democratic Services Officer prior to the start of question time. When read out, each question must be concluded within 2 minutes. In the event that it is not possible to give a verbal response, a written response will be provided following the meeting.]*

## **AGENDA**

1. **APOLOGIES FOR ABSENCE**

To receive apologies for absence.

2. **MINUTES**

To confirm the Minutes of the Meeting held on 5 July and the Special Meeting held on 18 July 2022.

3. **DECLARATIONS OF INTERESTS**

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.

4. **QUESTIONS FROM MEMBERS OF THE PUBLIC**

The Chairman to respond to any questions received from members of the public for which notice has been given in accordance with Procedure Rule 10.

The deadline for receipt of questions is 5pm on Tuesday 30 August 2022.

5. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

The Chairman to respond to any questions received from Members in

accordance with Procedure Rule 11.

The deadline for receipt of questions is 5pm on Tuesday 30 August 2022.

6. LEADER'S AND PORTFOLIO HOLDERS' UPDATES

7. AFFORDABLE HOMES SUPPLEMENTARY PLANNING DOCUMENT UPDATE - TO APPROVE DOCUMENT FOR PUBLIC CONSULTATION  
(Pages 7 - 84)

[Portfolio Holder: Councillor Nick Palmer, Councillor Liz Townsend BEM]

Officers are seeking Executive approval for the draft Affordable Housing Supplementary Planning Document Update to be published for public consultation between September and October 2022.

**Recommendation**

It is recommended that the Executive approves the draft Affordable Housing Supplementary Planning Document Update to be published for public consultation between midday 19.09.22 - midday 31.10.22.

8. REPORT OF THE OVERVIEW AND SCRUTINY WORKING GROUP ON HOUSING ALLOCATIONS (Pages 85 - 102)

[Portfolio Holder: Councillor Paul Rivers, Councillor Nick Palmer]

To inform the Executive of the findings of the Overview and Scrutiny working group on Housing Allocations (henceforth 'the Working Group').

To ask the Executive to consider and endorse the Working Group's recommendations.

**Recommendation**

That the Executive instruct the Head of Housing Delivery and Communities to implement the following recommendations:

- 1.The Council should keep the income threshold at £60,000 per annum and the savings threshold at £30,000. However, this should be reviewed by the Resources Overview and Scrutiny committee or another appropriate O&S committee within 12-18 months.
- 2.Establish a process to signpost applicants who are unable to join the housing register due to the income or savings threshold to Affordable Home Ownership Schemes notably shared ownership.
- 3.Maintain the existing position that children will only be accommodated in one home even if a 50/50 residence arrangement exists. An exception will be made if there is a court order in place requiring this or if Surrey County Council Children's Services (or an equivalent organisation elsewhere) provide compelling evidence that a second home is required.
- 4.Only housing related debts such as rent arrears and deposit scheme

debts to Waverley Borough Council, housing associations and to private landlords should be taken into account when considering eligibility for either inclusion on the housing register or the allocation of a property. Other debts owed to the Council such as council tax or housing benefit overpayments would be disregarded for these purposes. Housing related debts to private sector landlords is currently under review.

5. Establish a process by which the Housing Options team signpost applicants unable to join the housing needs register due to debts to local debt advice charities.

9. UPDATE ON THE MUSEUM OF FARNHAM MEND APPLICATION (Pages 103 - 108)

[Portfolio Holder: Councillor Kika Mirylees]

To provide an update on the Museum of Farnham's application for the Museum Estate and Development Fund (MEND) round 2. The report briefly sets out the status of the project and the key challenges to be met to ensure the Council is in the best position to submit a compelling bid by 30 September 2022 deadline. The application must include evidence that the level of partnership funding indicated in the Expression of Interest is secured or can be achieved prior to the project starting in April 2023.

**Recommendation**

It is recommended that the Executive agrees to the Council committing £100,000 of capital funding as a partnership contribution to an overall match fund commitment of £200,000.

However, if circumstances are as such that:

- I. The Council is awarded the full grant of £638,000 requested of MEND
- II. The legal and financial terms and conditions of grant are agreeable to the Council
- III. Every effort to obtain partnership funding from external sources has been explored

The Executive supports a recommendation in principle to the Council to make up the match funding shortfall based on a value for money appraisal and the identification of an available budget to enable the project to proceed to the construction phase.

10. BRIGHTWELLS YARD, FARNHAM - UPDATE (Pages 109 - 126)

[Portfolio Holder: Councillor Andy MacLeod]

To approve a Deed of Easement, between Waverley Borough Council, Crest Nicholson and BTR Farnham Limited.

Approve updates to the Head Lease Plan to reflect 'as built' position, in relation

to the Brightwells Yard, Farnham scheme.

### **Recommendation**

It is recommended that the Executive:

- approves the grant of the proposed Deed of Easement between the Council, Crest and BTR Farnham Ltd, as set out in Annexe 1 and that the Strategic Director is delegated to be able to agree easements on similar terms for those individual properties that request it and Thames Valley Metropolitan Housing.
- approves the updates to the Head Lease Plan as set out in Annexe 2.

11. **EXCLUSION OF PRESS AND PUBLIC**

To consider the following recommendation on the motion of the Chairman:-

#### **Recommendation**

That, pursuant to Procedure Rule 20, and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item(s) on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during these items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

12. **ANY OTHER ISSUES TO BE CONSIDERED IN EXEMPT SESSION**

***To consider matters (if any) relating to aspects of any reports on this agenda which, it is felt, may need to be considered in Exempt session.***

**For further information or assistance, please telephone  
Louise Fleming, Democratic Services & Business Support Team  
Manager, on 01483 523517 or by email at  
louise.fleming@waverley.gov.uk**

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**WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE**

**6 SEPTEMBER 2022**

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**Title:**

**Affordable Homes Supplementary Planning Document Update-**  
**To approve document for public consultation**

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**Portfolio Holders:** Cllr Nick Palmer

Co-Portfolio Holder for Housing (Delivery)

Cllr Paul Rivers

Co-Portfolio Holder for Housing (Operations)

Cllr Liz Townsend

Portfolio Holder for Planning and Economic Development

**Head of Service:** Andrew Smith

Head of Housing Strategy and Communities

**Key decision:** Yes

**Access:** Public / Exempt / Part Exempt

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**1. Purpose and summary**

Officers are seeking Executive approval for the draft Affordable Housing Supplementary Planning Document Update to be published for public consultation between September and October 2022

**2. Recommendation**

It is recommended that the Executive approves the draft Affordable Housing Supplementary Planning Document Update to be published for public consultation between midday 19.09.22 - midday 31.10.22.

### 3. **Reason for the recommendation**

To have an updated Affordable Homes Supplementary Planning Document Update which 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. **Background**

4.1 The Waverley Borough Council [Local Plan Part 1](#); Strategic Policies and Sites (LPP1) was adopted by the Council on 20 February 2018. LPP1 requires us to have an Affordable Housing SPD to 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 detail interpretation/ application of the policies.

4.2 The current Affordable Housing SPD was adopted in April 2021. Its purpose is to provide clarity to developers, affordable housing providers, Development Management officers, stakeholders and local residents on our affordable housing requirements.

4.3 An update is now required to take into account changes in national policy and to reflect the commitment to lower rents in our adopted Affordable Homes Delivery Strategy (April 2022) set out below:

#### ➤ **Social Rent**

The need to prioritise building housing for social rent is highlighted, in line with our [Affordable Homes Delivery Strategy](#)<sup>1</sup>. Social rents are the lowest rent of all, set at an equivalent to around 55% of market rent, for our lowest income households.

#### ➤ **Affordable Rent Cap**

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<sup>1</sup> Affordable Homes Delivery Strategy; Build More, Build Better, Build for Life (2022) Waverley Borough Council



If social rents are unviable, we will require a cap of 70% of market rents on 1 and 2 beds and of 65% on 3 and 4 beds, in line with supporting evidence on need from the Affordability Study<sup>2</sup> and viability from the Three Dragons<sup>3</sup> study.

➤ First Homes

The update reflects the national First Homes requirements which were introduced since the Supplementary Planning Document was originally published and sets out how the policy is applied locally.

➤ Viability

The requirement for all applications seeking to amend or reduce the affordable housing requirement to go to committee is included in this update, in line with the Affordable Homes Delivery Strategy.

➤ Locally affordable homes

Councillors have been keen to ensure that homes are affordable, in relation to local incomes. This is reflected in the affordability measures such as the priority for social rents and the recommended rental caps.

➤ Evidence

Policy ANH1 of the Waverley Local Plan Part 1 states that ‘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’. The following studies were completed in 2021 and provide an update to our evidence base, as is reflected in the recommendations for the mix of new provision:

- (a) [The Waverley Housing Affordability Study \(Justin Gardner Consulting / Iceni\)](#) considers affordability for the end user
- (b) [The First Homes Viability Update \(Three Dragons\)](#) considers the viability of delivering affordable housing to the developer, taking into account national First Homes requirements and a cap on affordable rents

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<sup>2</sup> Waverley Housing Affordability Study (2021) Justin Gardner Consulting/ Iceni

<sup>3</sup> The First Homes Viability Update (2021) Three Dragons

## **5. Proposed Changes**

- 5.1 Proposed changes to the Affordable Housing Supplementary Planning Document are summarised in the table below and highlighted in the document:

<b>PROPOSED CHANGE TO THE AH SPD</b>	<b>PARA</b>	<b>PAGE</b>
References to 2020-25 Corporate Strategy, Carbon Neutrality Action Plan and Climate Emergency Action Plan and draft Climate Change Supplementary Planning Document	NA	3
Evidence	17	11
Specific reference has now been made to the Council's priority to provide social rents for lower income households	58	27
Councillors' commitment to locally affordable homes which are affordable in relation to local incomes	58	27
Inclusion of affordable rent cap to protect affordability	58	27
Details of how First Homes policy will be applied	70	29
Reference to numbers in a cluster removed	76	30
Applications amending or reducing affordable housing to go to committee	85	33

## **6. Relationship to the Corporate Strategy and Service Plan**

- 6.1 The Affordable Housing Supplementary Planning Document Update supports the Corporate Strategy 2020-25 strategic priority *Good quality housing for all income levels and age groups*, by *“delivering Waverley’s new Housing Strategy to ensure homes are the right homes in the right places and that they are truly affordable for those who need them”*.
- 6.2 The Supplementary Planning Document contributes to Outcome 7 of the Housing Delivery and Communities Service Plan: *Deliver new affordable homes: increase delivery of well-designed, well-built affordable housing*.

## **7. Implications of decision**

### **7.1 Resource (Finance, procurement, staffing, IT)**

The consultation will be carried out using existing staff resources and existing IT.

### **7.2 Risk management**

The Affordable Housing SPD Update recommends implementing rental caps of 70% on one and two bedroom properties and 65% on three and four beds, which the First Homes Viability Update (Three Dragons) demonstrated to be viable. This would give officers more influence to secure affordability during negotiations. Rental caps will have an impact on the viability of developments and the tenure mix of homes that can be provided through Waverley's own housing developments, as it will for other affordable housing providers and commits the Council to leading by example on its own sites.

### **7.3 Legal**

Barry Devlin, Planning Solicitor: comments on SPD:

There are no direct legal implications associated with this report. The Affordable Housing Supplementary Planning Document Update will underpin the Council's delivery of its statutory and national policy requirements as an affordable housing provider, together with the other key functions of the Housing Delivery and Communities Service.

### **7.4 Equality, diversity and inclusion**

Delivery of new affordable housing actively promotes equality, reduces economic and social disparities and helps to ensure an adequate standard of living for all, regardless of income or background. We know that women and those from BAME groups are more likely to access affordable and social rented housing in Waverley. The Affordable Homes Supplementary Planning Document Update document will meet accessibility standards.

### **7.5 Climate emergency declaration**

Full details of our commitment to sustainability and developing affordable homes which are both built sustainably and enable residents to live in a more environmentally sustainable way, now and for years to come, are set out in our Climate Change and

Sustainability Supplementary Planning Document. Readers are signposted to this document on page 3 of the Affordable Housing SPD Update.

## **8. Consultation and engagement**

- 8.1 Approval is sought to publish the draft Affordable Housing Supplementary Planning Document Update for a public consultation from midday on 19.09.22 until midday 31.10.22.
- 8.2 The consultation will be publicised through the Council's website and social media platforms; the Economic Development Team's Business e-newsletter; Member Bulletin; through the Council's Affordable Housing Provider Forum and circulated with private developers and our Town and Parish Councils. Services Overview & Scrutiny Committee will be consulted as part of the consultation.
- 8.3 The consultation will be carried out via Inovem, the Council's planning consultation portal. A consultation survey has also been developed to collect views on the strategy and hosted on Microsoft Forms, with hard copies available on request; <https://forms.office.com/r/FTgDV88yN1> . Copies of the SPD will be available for inspection of the Council website and hard copies available on request.
- 8.4 This document will help all parties involved with the provision of new affordable housing, such as the Council, landowners, developers and registered providers. The consultation is open to anyone but is aimed at those who will use the SPD to inform the planning applications they submit to the Council, therefore contains quite technical advice and guidance.
- 8.5 Responses will be received by the Housing Strategy and Enabling Team for processing. Officers will review each response and incorporate into a consultation statement, before returning the amended document to Executive for recommendation to the Council to adopt.

## 9. Other options considered

- 9.1 The current Affordable Housing Supplementary Planning Document does not reflect the current aspirations of our Affordable Homes Delivery Strategy, Corporate Strategy Climate Emergency Declaration or changes to national policy.
- 9.2 Maintaining current Affordable Rent levels i.e. 80% rents, capped at Local Housing Allowance (LHA) – has its own risks. New rented units set at this level do not help working households on low incomes and creates a disincentive for tenants currently receiving LHA to seek employment. If all households moving into new build affordable rents at 80% are in receipt of LHA, this makes the new community less of a mix of household types and less sustainable.

## 10. Governance journey

- 10.1 The document will be amended following feedback from consultation before taken to Executive Briefing on 21 February 2023 in advance of Executive 7 March 2023, with a recommendation for Full Council to adopt on 21 March 2023.

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### Background Papers

1. [Affordable Homes Delivery Strategy; Build More, Build Better, Build for Life \(2022\) Waverley Borough Council](#)
2. [Waverley First Homes Viability Update \(2021\) Three Dragons](#)
3. [Waverley Housing Affordability Study \(2021\) Icen Projects/ Justin Gardner](#)

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### CONTACT OFFICERS:

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Agreed and signed off by:

Legal Services: Barry Devlin 21.07.22

Head of Finance: 5/8/22

Strategic Director: Annie Righton at Management Board 26.07.22

Portfolio Holder: Cllr Townsend 28.07.22; to be discussed further at Executive Briefing

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**AFFORDABLE  
HOUSING  
SUPPLEMENTARY  
PLANNING  
DOCUMENT  
UPDATE**

**2022**

## Approval & Publication:

Approving Body	Approval route requirement	Publication Type	Publication requirement	Review frequency	Document owner	Next Review Date
Executive, Council		Internal/ external	There are no legal or constitutional requirements for publication	As required, according to national and local policy changes	AS	NA

## Version Control Information:

Version	Version Status (Draft, Approved /Published Internally or Externally)	Date	Version Comment	Version Author
V1	Published	April 2021	Approved by Full Council/ 1 <sup>st</sup> Publication	AL & EL
V2.1	Draft Update	Est 06.09.22	Executive approve for consultation	AL & EL
V2.2	Draft Update following consultation	Est 07.03.23	Executive approve amended draft	AL & EL
V3	Final Approval	Est 31.03.23	Approved by Full Council/ update	AL & EL

## Impact Assessments and Consideration:

Impact Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Assessment Owner
Equality Impact Assessment	Required			
Data Protection Impact Assessment	Not required			
Climate Change	Not required			



## Document Statement

Waverley is committed to homes to buy or rent for households from all income levels. The strategy sets out our priorities and objectives for the development of new affordable homes by the Council and our partners for the next 3 years.

## Scope and Purpose

This update reflects changing policy and practice since the Affordable Housing Supplementary Planning Document was published in April 2021, including the introduction of First Homes. Amendments are highlighted for ease of reference but will be removed when the final document is adopted and published.

## Document Improvement

The Council welcomes comments and feedback on its policies and procedures. Please contact [alice.lean@waverley.gov.uk](mailto:alice.lean@waverley.gov.uk) and [esther.lyons@waverley.gov.uk](mailto:esther.lyons@waverley.gov.uk) of the Housing Strategy and Enabling Team if you have any comments.

## Related information

5.1 Other Related Council Policies / Information/ Evidence Base Documents

*Waverley Borough Council Affordable Homes Delivery Strategy 2022-25*

*Waverley Borough Council Affordable Housing Supplementary Planning Document*

*Waverley Borough Council Quality and Design Standards Update*

*Draft Waverley Borough Council Climate Change and Sustainability Supplementary Planning Document*

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## **CONSULTATION**

This Affordable Housing Supplementary Planning Document will be amended to include comments made following public consultation, which is scheduled to take place between **19.09.22 and 31.10.22**

## EXECUTIVE SUMMARY

*Our vision is that Waverley will be environmentally, economically and financially sustainable with healthy, inclusive communities and housing available for all who need it. 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 2020-25)

We are committed to achieving our vision of homes to buy and rent for households from all income levels. *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.* (Build More, Build Better, Build for Life; Waverley Housing Strategy 2022-2025)

1. This Affordable Housing Supplementary Planning Document (SPD) **Update** sets out the Council's guidance on the securing of planning obligations and affordable housing from new development within the Borough.
2. 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.
3. 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.
4. This SPD sets out the Council's approach to securing planning obligations in respect of affordable housing from new development across the Borough.
5. 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.

6. 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.
7. 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

8. The Waverley Borough Council Local Plan Part 1; Strategic Policies and Sites (LPP1) was adopted by the Council on 20 February 2018.
9. LPP1 sets out the strategy for development and growth in the Borough to 2032 and includes policies to secure affordable housing.
10. Chapter 9 ('Affordable Housing and Other Housing Needs') includes Policy AHN1; Affordable Housing on Development Sites and Policy AHN2: Rural Exception Sites.
11. 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 areas<sup>1</sup> 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 area<sup>2</sup> of more than 1,000 sqm.

12. 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 C3<sup>3</sup> (paragraph 9.16). Residential care homes and nursing homes (Use Class C2) are not required to provide affordable housing.

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

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

<sup>3</sup> Town and Country Planning (Use Classes) Order 1987 (as amended)

13. '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).
14. 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.
15. 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 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.
16. 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.
17. 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<sup>4</sup> <sup>5</sup>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.

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<sup>4</sup> [Waverley Housing Affordability Study by Icen Projects/ Justin Gardner \(December 2021\)](#)

<sup>5</sup> [Waverley First Homes Viability Update by Three Dragons \(December 2021\)](#)

18. Contributions towards the provision of affordable housing will be either through the on-site provision of affordable homes or by financial contribution or commuted sum<sup>6</sup>. The provision of affordable housing or financial contributions will be secured through an appropriate legal agreement or undertaking.
19. 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.
20. 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.

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<sup>6</sup> 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

21. '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).

22. '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).
23. '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).
24. '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).
25. '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).
26. '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

27. 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.
28. 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).
29. 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.
30. 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 households<sup>7</sup>

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<sup>7</sup> Subject to exclusions, such as Right to Buy/ Right to Acquire

- 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 dwelling<sup>8</sup>
- Mortgagee in Possession clauses and limitations on the occupation of the affordable housing.

Waverley's Template Section 106 Agreement is attached as Appendix 3 to this document.

A model S106 agreement for First Homes is available at [www.gov.uk](http://www.gov.uk):

31. The Section 106 Agreement should be finalised and ready for completion prior to the determination of the application. There may be circumstances, 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.
32. The details to be provided in the Affordable Housing Plan are<sup>9</sup>:
  - 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

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<sup>8</sup> Subject to current Homes England policies or requirements, and amended as appropriate to reflect any changes arising from Homes England

<sup>9</sup> See Appendix 1



e. Nomination and management arrangements

f. Affordability

33. 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.
34. 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**

35. 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 .
  - 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**

36. 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.<sup>10</sup>
37. 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**

38. 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.

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<sup>10</sup> see para 011 Reference ID: 70-011-20210524 of the NPPG

## Nomination Agreements

39. 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.
40. 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.
41. 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

42. All applicants are strongly encouraged to make use of the Council's pre-application advice service before making a planning application.
43. 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.
44. 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.

45. 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**

46. 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**

47. 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.

48. 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.
49. 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.
50. In all cases the provider of on-site affordable housing will need to meet the requirements of this document.

### Funding of affordable housing

51. 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.
52. 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

53. 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.

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	1 bed	2 bed	3 bed	4+ bed	Total
<b>Affordable home ownership (First Homes, shared ownership and shared equity)</b>	20%	50%	25%	5%	100%
<b>Affordable housing (for social and affordable rent)</b>	40%	30%	25%	5%	100%

Suggested Mix of Affordable Housing by Size and Tenure – Waverley Housing Affordability Study 2021

54. The overall housing target is to provide 60% of the total as social rents or affordable rents. 25% of affordable homes need to be First Homes, in line with the revised National Planning Policy Framework. The remaining 15% are recommended as shared ownership. This recommended mix also meets the national requirement for at least 10% of the homes overall on each site to be available for affordable 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.

55. The Council intends that part of a dwelling may be either rounded up or down, as illustrated in the example below. Applicants are encouraged to discuss schemes at the early stages of preparation with the Council to enable a workable outcome. The greater need for affordable homes to rent and shared ownership should result in this tenure being rounded up in preference to providing other forms of affordable housing in the Borough, such as First Homes which will be rounded down.

56. Example: A scheme for 100 dwellings

Method	Result
30% affordable housing requirement from Policy AHN1 – 100 x 30%	30 affordable dwellings
Social/ affordable rented = 60% of the 35 affordable housing requirement	18 dwellings
Shared Ownership= 15% of the dwellings	4.5 (rounded up to 5 dwellings) *
First Homes = 25% of the 30 dwellings	7.5 (rounded down to 7 dwellings)

\* Tenures for which there is a greater need are rounded up; see para 55.

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 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. The Council is committed to delivering Locally Affordable Homes that local workers and households on low incomes can afford. Social rents for households on the lowest incomes remain a priority for the Council and should be provided on new developments whenever possible. However, where this is not viable, affordable rents should be capped at 70% for 1 and 2 beds and 65% for 3 and 4 bed homes (including service charges) or the current Local Housing Allowance rate for the area; whichever is lower, in order to be affordable to local households.
59. 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.
60. Tenures and rents levels will need to be agreed with the Council and the affordable housing provider taking on the units. Both rented tenures will need to be defined in the Section 106 Agreement to allow flexibility.
61. 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.
62. 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.
63. ~~The Council will need to ensure rents will be affordable to potential occupiers.~~ The Welfare Reform and Work Act 2016 reduced the 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

64. Affordable home ownership includes **First Homes**, 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. **10% of all homes on site should be affordable home ownership products, unless one of the exemptions applies<sup>11</sup>.**

65. 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 Register<sup>12</sup> 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.

66. 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

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<sup>11</sup> Paragraph 65, NPPF

<sup>12</sup> Shared ownership housing is allocated through Radian as the Help to Buy Agent for Waverley.

Protected Areas. In order to retain affordable housing in these rural areas, the maximum equity share that can be purchased is typically 80%.

67. 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.
68. 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.
69. 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.

### **First Homes**

70. First Homes are discounted market sale homes that for planning purposes meet the definition of 'affordable housing' stated in the National Planning Policy Framework (see Glossary)
71. 25% of affordable homes need to be First Homes, in line with the revised National Planning Policy Framework.
72. The Waverley Local Plan Part 1; Strategic Policies and Sites (LPP1) was adopted in February 2018. Policy AHN1: 'Affordable Housing on Development Sites' requires that development proposals of 10 or more (net) additional dwellings or sites over 0.5 hectares provide 30% of dwellings as affordable units, with 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, having regard also to the form and type of development appropriate for the site'. The most up to date evidence of need is the Waverley Housing Affordability Study by Icen Projects/ Justin Gardner (December 2021) and the Waverley First Homes Viability Update by Three Dragons (December 2021).

73. To qualify as a First Home, a section 106 agreement will be required to secure the necessary restrictions on the use and sale of the property, and a legal restriction on the title of the property to ensure that these restrictions are applied to the property at each future sale, guaranteeing perpetuity.<sup>13</sup>
74. Waverley has set the following local criteria for First Homes:
- A. retaining the national guidance of 30% discount for First Homes,
  - B. retaining the national guidance of £80k income threshold
  - C. Applying an additional local eligibility criteria to ensure local residents have access the scheme - as set out in the Housing Allocation Policy, to ensure First Homes are available to local residents and workers. This will reflect the Housing Allocation Policy
  - D. Will not apply an additional priority for local essential worker criteria as the proposed working locally criteria includes all essential workers earning under £80k pa as eligible.

### Quality and Design Standards

75. 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 Specifications<sup>14</sup> for its own new build developments which set out best practice for design and quality of affordable housing.
76. The Council expects the affordable homes to be distributed throughout the site in small clusters appropriate for the scale and design of the development ~~of approximately 10 units, dependent on the scale and design of the development~~. Locating

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<sup>13</sup> See model s.106 clauses in appendix

<sup>14</sup> [WBC Design Standards](#)

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.

77. 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<sup>15</sup>.
78. 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 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,

<b>Unit type proposed</b>	<b>Minimum floor area to meet NDSS</b>	<b>Minimum bedroom size requirement</b>
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)
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

<sup>15</sup> As required under Policy AHN3, Waverley Design Standards and secured in s.106 agreements

Unit type proposed	Minimum floor area to meet NDSS	Minimum bedroom size requirement
4-bed house	115sqm (4b7p)	11.5sqm (double or twin room) Single bedspace must be at least 7.5sqm and at least 2.15m wide

79. 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.
80. 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 Design’<sup>16</sup> guidance.

### Building Regulations

81. Your project will need to meet building regulations.

<sup>16</sup> [www.securedbydesign.com](http://www.securedbydesign.com)

82. 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.
83. 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.

## PART THREE: VIABILITY

### Development Viability

84. 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<sup>17</sup>.
85. 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. **All applications which seek to amend or reduce the affordable housing requirement on the basis of viability will be taken to Planning Committee.**
86. 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 Levy<sup>18</sup> 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 made<sup>19</sup>.

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<sup>17</sup> [www.gov.uk/guidance/viability](http://www.gov.uk/guidance/viability)

<sup>18</sup> The Community Infrastructure Levy Regulations 2010 (as amended) [http://www.legislation.gov.uk/uksi/2010/948/pdfs/ukxi\\_20100948\\_en.pdf](http://www.legislation.gov.uk/uksi/2010/948/pdfs/ukxi_20100948_en.pdf)

<sup>19</sup>As per Appendix 2



87. 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.
88. 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 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.
89. 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).
90. 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.
91. 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.
92. 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.

93. 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.
94. 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**

95. 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.
96. 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.

97. 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**

98. 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.
99. 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.
100. 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**

101. 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.
  
102. 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?

103. A commuted sum (or payment in lieu) is an amount of money, paid by a developer to the Council. Paragraph 63 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 enables the Council to require commuted sums in the following cases:

- 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

104. 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.
105. 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'?**

106. The revised National Planning Policy Framework<sup>20</sup> states that where a need for affordable housing is identified, “planning policies should... expect it to be met on-site.”<sup>21</sup>
107. 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 considered<sup>22</sup>.

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 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.

108. 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.
109. 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.”

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<sup>20</sup> NPPF 2021 Paragraph 63

<sup>21</sup> Unless the site meets criteria set out in Paragraph 107.a.above

<sup>22</sup> Unless the site meets criteria set out in Paragraph 96.a.above

### **How will the money be used?**

110. 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.
111. 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.
112. 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.
  - 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.
  - 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 alternatives 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.

113. 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?**

- 114. 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.
- 115. 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.
- 116. 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.
- 117. 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 Area<sup>23</sup> 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 value<sup>24</sup>.
- 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.

<b>Table 1: Worked example of commuted sum</b>	<b>e.g.</b>
<b>Scenario= Development of 10 x three bed houses</b>	
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 <b>£344,000</b> 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)
Multiply cost per m2 by 102 for floor area of affordable home with 3 bedrooms	X 102=£318,982

<sup>23</sup> 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

<sup>24</sup> [Affordable Housing Viability Study, Para 3.9.22](#)

<b>Table 1: Worked example of commuted sum</b>	<b>e.g.</b>
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
<b>Multiplied by 3 (to represent the units/ parts of units which would otherwise have been provided on site) =</b>	
<b>TOTAL PAYMENT IN LIEU OF £419,286</b>	

### How will this be monitored?

118. The Council will keep and monitor a record of all sums agreed and received and how they have been spent.
119. 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.

120. 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?**

121. 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, 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.

122. 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**

123. 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 amount<sup>25</sup>.

124. 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.

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<sup>25</sup> Equivalent to the existing gross floorspace of the existing buildings.

### **What is a Vacant Building?**

125. 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.).
126. In coming to a view about whether the building is empty, Officers will need to:
- 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.
127. 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?

128. Applicants need to provide an independent valuation including the Gross Internal Floor Area<sup>26</sup> 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.
129. 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.
130. 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.

<b>Element</b>	<b>Represented by/ units</b>	<b>Worked Example</b>
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	30% of 40 units is 12 affordable homes usually required

<sup>26</sup> 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
	required under planning policy	
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 <sup>27</sup>

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<sup>27</sup> E.g. 10 affordable homes on site and 0.5 via commuted sum

## Glossary

**Affordable Housing (NPPF Definition):** the Government's definitions of 'affordable housing, affordable housing for rent, First 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, meaning housing for sale or rent for those whose needs are not met by the market.

**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.

**Affordable Rent** Affordable housing 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.

**AHN1** Affordable Housing on Development Sites [Waverley Local Plan Policy]

**AHN2** Rural Exception Sites [Waverley Local Plan Policy]

**AHN3** Housing Types and Size [Waverley Local Plan Policy]

~~**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.

**First Homes** First Homes are a specific kind of discounted market sale housing which are classed as 'affordable housing' for planning purposes. First Homes:

a) must be discounted by a minimum of 30% against the market value;

b) are sold to a person or persons meeting the First Homes eligibility criteria;

c) on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,

d) after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).

**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.



**Locally Affordable Homes:** Homes which are affordable to Waverley workers or low-income households living in Waverley, according to the Council's latest evidence source.

**M4 (1) Category 1:** Visitable Dwellings, Schedule 1 to Building Regulations 2010

**M4 (1) Category 2:** Accessible and adaptable dwellings, Schedule 1 to Building Regulations 2010

**M4 (1) Category 3:** Wheelchair User Dwellings, Schedule 1 to Building Regulations 2010

**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 2021, 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.

**Rent Caps:** setting overall maximum rent levels

**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”.

**Social Rented Housing** Affordable homes 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;

**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:

	INFORMATION/ DATA	PLEASE TICK IF INCLUDED
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 rents will be set social rent or Affordable Rent set no higher than 70% for 1 and 2 beds or 65% for 3 and 4 beds. Rents (including service charges), should be no higher than current Local Housing Allowance rates in the Borough.	
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.

INFORMATION/ DATA	PLEASE TICK IF INCLUDED
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"> <li>a. 20% and 30% affordable housing of which                 <ul style="list-style-type: none"> <li>i. 60% 70% social and/or affordable rent/ 40% 30% affordable home ownership intermediate</li> <li>ii. 50% social and/or affordable rent/ 50% affordable home ownership -intermediate</li> <li>iii. 100% intermediate, including shared equity products.</li> </ul> </li> </ul>	
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.	



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

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

## Appendix 3 – Standard Template Affordable Housing Schedule 106 Agreement (not part of consultation)

### 1. Definitions

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

<b>“Act”</b>	means the Town and Country Planning Act 1990 as amended;
<b>“Affordable Housing”</b>	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;
<b>“Affordable Housing Plan”</b>	means the Affordable Housing Plan showing the location, type, bed size and tenure mix of the Affordable Housing Units within the Development;
<b>Affordable Housing Provider</b>	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;
<b>“Affordable Housing Units”</b>	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;
<b>“Affordable Rented Units”</b>	means the Affordable Housing Units provided to households who are eligible for affordable rented housing, and provided at a rent of no more than 70% for one and 2 bed units and 65% for 3 and 4 bed units 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;
<b>“Application for Planning Permission”</b>	means the [full/outline] application dated [ ] given planning reference number WA[ ] with a description of the Development for the erection of [ ];
<b>“Application Site”</b>	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) [ ];
<b>“Borough Council Contributions”</b>	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;
<b>“CIL Regulations”</b>	means the Community Infrastructure Regulations 2010 as amended;
<b>“Commencement Date”</b>	means the date of Commencement of Development;
<b>“Commencement of Development”</b>	<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"> <li>a. the carrying out of operations the commencement will be when those operations are begun</li> <li>b. a change of use the commencement will be when the new use is implemented</li> <li>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;</li> </ol>

<b>“Community Facilities Contribution”</b>	means a sum of £[ ] ([ ]) to be paid to the Borough Council as a contribution towards [ ];
<b>“County Council Contributions”</b>	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;
<b>“Cycle and Public Transport Vouchers”</b>	[ ];
<b>“Cycleway”</b>	[ ];
<b>“Deed”</b>	means this document when it is duly executed, dated and delivered;
<b>“Default Interest Rate”</b>	means eight per centum (8%) per annum above the Bank of England Base Rate;
<b>“Development”</b>	means the development of the Application Site pursuant to the Planning Permission;
<b>“Disposal”</b>	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;
<b>“Dwelling”</b>	means a residential unit to be constructed on the Application Site pursuant to the Planning Permission and “Dwellings” shall be construed accordingly;
<b>“Early Years Education Contribution”</b>	means the sum of £[ ] ([ ]) to be paid to the County Council as a contribution towards the provision of [ ];
<b>“Environmental Enhancement Contribution”</b>	means the sum of £[ ] ([ ]) to be paid to the Borough Council as a contribution towards the provision of [ ];
<b>“Estate Roads and Footpaths”</b>	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;

<b>“First Occupation”</b>	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;
<b>“Highways Agreement”</b>	means an agreement under section 278 of the Highways Act 1980 as amended;
<b>“Highways Improvement Contribution”</b>	means the sum of £[ ] ([ ]) to be paid to the County Council as a contribution towards the provision of the Highway Works;
<b>“Highway Works”</b>	means [ ];
<b>“Index”</b>	means All Items Index of Retail Prices issued by the Office for National Statistics;
<b>“Index-Linked”</b>	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;
<b>“Inspector”</b>	means a person appointed by the Secretary of State or PINS by virtue of the Act to hear and/or determine the Planning Appeal;
<b>“Landscape Ecological Management Plan (LEMP)”</b>	means a written scheme setting out the method for the ongoing management of [ ];
<b>“LAP”</b>	means the local area play as defined by the National Playing Fields Association as shown [indicatively] on the Site Allocation Plan;
<b>“LEAP”</b>	means the locally equipped area of play as defined by the National Playing Fields Association as shown [indicatively] on the Site Allocation Plan;;
<b>“Leisure and Sports Contribution”</b>	means a sum of £[ ] ([ ]) to be paid to the Borough Council of as a contribution towards the provision of [ ];
<b>“Local Housing Allowance”</b>	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;
<b>“Managed Land”</b>	means the Estate Roads, the LAP, the LEAP, the Open Space and the SUDS;
<b>“Management Company”</b>	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;
<b>“Management Plan”</b>	<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> <ul style="list-style-type: none"> <li>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;</li> <li>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</li> <li>c. to provide a means by which the Borough Council may verify compliance with the Management Plan;</li> </ul>
<b>“Material Operation”</b>	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;
<b>“Nomination Agreement”</b>	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;
<b>“Occupation”</b>	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;
<b>“Open Market Units”</b>	means those Dwellings which are not Affordable Housing Units;
<b>“Open Space”</b>	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;
<b>“Open Space Specification”</b>	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;
<b>“Planning Appeal”</b>	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 [ ];
<b>“Planning Permission”</b>	means the planning permission granted pursuant to the Application for Planning Permission;
<b>“PINS”</b>	mean the Planning Inspectorate;
<b>“Protected Tenant”</b>	means any tenant who:

	<p>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> <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>
<b>“SAMM”</b>	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;
<b>“SANG”</b>	means the existing suitable alternative natural green space at Farnham Park, Surrey;
<b>“SANG Contribution”</b>	means the sum of £[ ] ([ ]) to be paid to the Borough Council as a contribution in respect of the SANG;
<b>“Secondary Education Contribution”</b>	means the sum of £[ ] ([ ]) to be paid to the County Council as a contribution towards the provision of [ ];
<b>“Shared Equity Units”</b>	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;
<b>“Shared Ownership Lease”</b>	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)
<b>“Shared Ownership Lessee”</b>	means the tenant of a Shared Ownership Lease;
<b>“Shared Ownership Units”</b>	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;
<b>“Site Allocation Plan”</b>	means the plan annexed to this Deed at Schedule 4 headed “Site Allocation Plan”;
<b>“Site Layout Plan”</b>	means the plan annexed to this Deed at Schedule 4 headed “Site Layout Plan” showing the Application Site edged red;
<b>“Social Rented Housing”</b>	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;
<b>“SPA”</b>	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;
<b>“SPA Avoidance Strategy”</b>	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;

<p><b>“Sustainable Drainage System (SUDs)”</b></p>	<p>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;</p>
<p><b>“Travel Plan”</b></p>	<p>means [ ];</p>
<p><b>“Travel Plan Monitoring Contribution”</b></p>	<p>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;</p>
<p><b>“Waste and Recycling Contribution”</b></p>	<p>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.</p>

## 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:



	S.106 AFFORDABLE HOUSING REQUIREMENT			
	FIRST HOMES	Affordable Rented at 70% for 1 and 2 beds and 65% for 3 and 4 beds	Social Rented	Shared Ownership/Shared Equity
1 bed flat				
2 bed flat				
2 bed house				
3 bed house				
<b>4 bed house</b>				
<b>Total</b>				

## 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 its 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 related costs under the charge or mortgage.

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**WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE**

**6<sup>TH</sup> SEPTEMBER 2022**

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**Title: Report of the Overview and Scrutiny working group on Housing Allocations**

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**Head of Service: Andrew Smith, Head of Housing Delivery & Communities**

**Key Decision: No**

**Access: Public**

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**1. Purpose and summary**

- 1.1 To inform the Executive of the findings of the Overview and Scrutiny working group on Housing Allocations (henceforth 'the Working Group').
- 1.2 To ask the Executive to consider and endorse the Working Group's recommendations.

**2. Recommendation**

- 2.1 That the Executive instruct the Head of Housing Delivery and Communities to implement the following recommendations:
  - 1. The Council should keep the income threshold at £60,000 per annum and the savings threshold at £30,000. However, this should be reviewed by the Resources Overview and Scrutiny committee or another appropriate O&S committee within 12-18 months.
  - 2. Establish a process to signpost applicants who are unable to join the housing register due to the income or savings threshold to Affordable Home Ownership Schemes notably shared ownership.
  - 3. Maintain the existing position that children will only be accommodated in one home even if a 50/50 residence arrangement exists. An exception will be made if there is a court order in place requiring this or if Surrey County Council Children's Services (or an equivalent organisation elsewhere) provide compelling evidence that a second home is required.
  - 4. Only housing related debts such as rent arrears and deposit scheme debts to Waverley Borough Council, housing associations and to private landlords should be taken into account when considering eligibility for either inclusion on the housing register or the allocation of a property. Other debts owed to the Council such as council tax or housing benefit overpayments would be disregarded for these purposes. Housing related debts to private sector landlords is currently under review.

5. Establish a process by which the Housing Options team signpost applicants unable to join the housing needs register due to debts to local debt advice charities.

### **3. Reason for the recommendation**

To ensure the Council let homes to tenants in a fair, transparent and efficient way, through a robust Allocation Scheme to address the housing need within the borough.

### **4. Background**

- 4.1 In 2019, the Housing O&S scrutiny review '[Attitudes to Council Housing: Pride or Prejudice](#)' recommended that a review was undertaken of the Council's Allocation Policy, to ensure an easy application process for all eligible residents, including local workers, and more representative demand data is collected, and the Council should expand and develop its communication on allocation criteria to better educate members of the public on who is eligible for social housing.
- 4.2 In 2020, the Housing Strategy and Enabling Team commissioned an affordability and housing need study which has provided up to date local information to inform the allocation scheme.
- 4.3 In September 2021, the Housing Overview and Scrutiny Committee adopted a [scoping document](#) and agreed the membership for the group conducting the present review. Following the subsequent reconfiguration of Waverley's scrutiny arrangements, the Resources Overview and Scrutiny committee has adopted the role as the parent committee for this review.
- 4.4 The recommendations from the working group were presented to Resources Overview and Scrutiny Committee on June 20, 2022. The Committee accepted them, though it requested the wording of recommendation #4 be clarified. Therefore, the wording of this recommendation will differ from that in annexe 1.

### **5. Relationship to the Corporate Strategy and Service Plan**

The Corporate Strategy makes the delivery of *“good quality housing for all income levels and age groups”* a strategic priority. To reflect this, Objective 2 of the Housing Delivery and Communities Service Plan 2021-2024 is *“preventing homelessness and meeting housing needs, including needs for supported accommodation and housing for older people.”*

### **6. Implications of decision**

#### **6.1 Resource (Finance, procurement, staffing, IT)**

The Working Group took the amount of available Council Housing as a given.

As discussed in Annexe 1, recommendations #4 and #5 aim to reduce the staff resource required to administer the allocations process.

## **6.2 Risk management**

If implemented, recommendations #4 would likely lead to additional people joining the housing register. Therefore, this would potentially lead to a longer wait for others on the register.

These recommendations might also reduce the incentive for applicants to repay other debts to the Council or allow applicants with a greater tendency not to pay debts to take up tenancies with the Council. Either scenario could potentially have an impact on the Council's finances. However, during their investigations, the members of the Working Group found no evidence to indicate these scenarios were likely and satisfied themselves that the Council had alternative tools to recover debts and prevent rent arrears.

## **6.3 Legal**

There are no direct legal implications from this report.

## **6.4 Equality, diversity and inclusion**

An Equalities Impact Assessment has been completed to reflect the likely impact of implementing recommendation #4. Council tax arrears appear to disproportionately affect those with a number of protected characteristics. Therefore, this recommendation is likely to have a positive impact in terms of allowing equal access to council housing.

## **6.5 Climate emergency declaration**

These recommendations do not have direct climate emergency implications.

## **7. Consultation and engagement**

The Task and Finish group consulted local voluntary groups with practical experience of assisting applicants to join the housing register.

## **8. Other options considered**

These are discussed within Annexe 1.

## **9. Governance journey**

Please see para 4.1 – 4.4.

### **Annexe:**

Annexe 1 – Report from the Housing Allocations Task and Finish Group (Resources Overview & Scrutiny)

Annexe 2 – Equality Impacts Assessment for the Housing Allocations Task and Finish Group

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## **Background Papers**

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

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# Report from the Housing Allocations Task and Finish Group (Resources Overview & Scrutiny)

## Chair's Forward

Waverley Borough Council's Corporate Strategy makes the delivery of "*good quality housing for all income levels and age groups*" a strategic priority and "*preventing homelessness and meeting housing needs, including needs for supported accommodation and housing for older people*" a key objective. To this end, the Council maintains a stock of 4,800 homes in total. How and to whom these are allocated is a vital consideration for meeting this objective.

Given this the work this Task and Finish group has undertaken in reviewing the Council's policies on housing allocation has been critically important. The blunt fact that Waverley does not have enough social or affordable homes has informed all recommendations and forced us to face some difficult trade-offs. It was with regret that we concluded we could not in good conscience recommend raising the income and savings threshold to join the housing waiting list. In addition, we could not recommend the provision of additional space to children from co-parenting families who move between two properties.

Obviously, this scarcity also places the Council's Housing Options and HomeChoice teams under immense pressure. I know that the whole Task & Finish Group would wish me to note how impressed we have been by their enthusiasm and expertise despite the difficult situation. We all greatly appreciate them finding the time to offer us assistance and advice.

We would also like to note our admiration for the local charities and voluntary groups helping those with housing or debt problems. Three local organisations contributed their invaluable insights to our deliberations. We made a specific recommendation to ensure their support is accessible to any applicants struggling to join the housing waiting list due to debts.

Though it was not directly within our remit, the Group was also struck by the absurd anomaly whereby people living in Farnham have a lower entitlement to housing benefit than other Waverley residents, even though their housing costs are broadly similar. It is not in the Council's power to rectify this. However, as councillors we owe it to the people of Farnham to highlight this unfairness and call on the Government to rectify it.

Despite the difficult situation, we are humbled by the good work being done across sectors to help those in housing need. Our seven recommendations whilst recognising the scale of the challenge, aim to build on and develop this work.

**Councillor George Wilson**

**Chair, Housing Allocations, Task & Finish Group**  
**Ward councillor for Godalming Farncombe and Catteshall**

## Executive Summary

In light of their discussions, the Housing Allocations Task and Finish Group (henceforth 'the Group') commend the following recommendations to the Resources Overview and Scrutiny Committee and ask that they endorse and convey them to the Executive:

1. The Council should keep the income threshold at £60,000 per annum and the savings threshold at £30,000. However, this should be reviewed by the Resources Overview and Scrutiny committee or another appropriate O&S committee within 12-18 months.
2. Establish a process to signpost applicants who are unable to join the housing register due to the income or savings threshold to Affordable Home Ownership Schemes notably shared ownership.
3. Maintain the existing position that children will only be accommodated in one home even if a 50/50 residence arrangement exists. An exception will be made if there is a court order in place requiring this or if Surrey County Council Children's Services (or an equivalent organisation elsewhere) provide compelling evidence that a second home is required.
4. Only housing related debts such as rent arrears and deposit scheme debts should be taken into account when considering eligibility for inclusion on the housing register and allocation of housing. Other debts such as council tax or housing benefit overpayments would be disregarded for this purpose.
5. Given the administrative burden in checking debts and that the average time someone is on the register is 2-3 years, it makes sense that checks at application stage are more light touch given an applicant's debts status can change so much over time.
6. Establish a process by which the Housing Options team signpost applicants unable to join the housing needs register due to debts to local debt advice charities.
7. The Chair of the Housing Allocations Group and the Chair of Resources Overview and Scrutiny to write a joint letter the Secretary of State for Housing, Levelling Up and Communities to reiterate the need for the importance of ensuring the Local Housing Allowance (LHA) rates properly reflect rents in Farnham.

## Governance background

In 2019, the Housing O&S scrutiny review '[Attitudes to Council Housing: Pride or Prejudice](#)' recommended that a review was undertaken of the Council's Allocation Policy, to ensure an easy application process for all eligible residents, including local workers, and more representative demand data is collected, and the Council should expand develop its communication on allocation criteria to better educate members of the public on who is eligible for social housing.

In 2020, the Housing Strategy and Enabling Team commissioned an affordability and housing need study which has provided up to date local information to inform the allocation scheme.

In September 2021, the Housing Overview and Scrutiny Committee adopted a [scoping document](#) and agreed the membership for the group conducting the present review. Following the subsequent reconfiguration of Waverley's scrutiny arrangements, the Services Overview and Scrutiny committee adopted the role as the parent committee for this sub-group. However, in April 2022, there was a further revision to the remits of the Overview and Scrutiny committees. Thereafter, housing matters were handled by the Resources Overview and Scrutiny committee. Hence, it is to that committee that the Group will ultimately report.

[N.B. Unless otherwise stated, all the committees and other organisations referenced in this section are part of Waverley Borough Council].

## Policy context

As Waverley Borough Council is a lower tier local authority, under s.166A of the Housing Act 1996 it is required to have Housing Allocation Scheme. It identifies the priorities that the Council will follow in the letting of its own Council stock and those Registered Provider (housing association) properties, to which it has nomination rights.

The Council's current scheme, last updated in October 2021, is attached as Annexe 1.

At present to be on Waverley's housing register applicants must:

- be considered to be in housing need and have a local connection to Waverley
- not owe Waverley Borough Council or another landlord money
- not own their home or have previously exercised the Right to Buy
- have an annual household income less than £60,000 and savings less than £30,000
- not have been proven to have committed anti-social behaviour, housing benefit fraud or sub-letting of social housing
- not already be a tenant of social housing to which the Council does not have a nomination right
- have a legal right to be included on Waverley's register

Those included on the Register are placed into Bands A-C depending on their level of housing need. Applicants who do not meet the criteria for Bands A-C can be placed in the 'Discretionary Pool'. This can include households that the Council is legally obliged to consider and those that the Council may need to house in the future such as those in supported accommodation but who are not yet ready to live independently.

## Methodology

The Group consisted of the following members principally drawn from the former Housing Overview and Scrutiny Committee: Cllr George Wilson (Chair - Godalming Farncombe and Catteshall), Cllr Christine Baker (Milford), Cllr Patricia Ellis (Cranleigh West), Cllr Jacquie Keen (Haslemere Critchmere and Shottermill), Gillian Martin (Tenants Panel), and Cllr Michaela Wicks (Farnham Hale and Heath End).

They held an initial meeting to review the existing allocations policy and scope out topics for detailed discussion at future meeting. These were:

1. The annual gross income and savings/assets thresholds above which a household does not qualify for inclusion on the housing register
2. How to allocate homes in cases where a child is part of more than one household (e.g. if their parents have separated or divorced and are co-parenting in separate households)
3. Applicants who currently have an outstanding Council Tax, Housing Benefit, rent arrears, deposit bond or rent in advance debt to Waverley

Throughout this process, the group members were advised by officers from WBC's Housing Needs team and supported by officers from the Corporate Governance service. For the first topic meeting, the group members were able to draw on the affordability study and housing needs study conducted for the Council by external consultants. In subsequent meetings, the group was advised

by representatives from local third sector groups which work with council tenants and potential tenants. These representatives spoke on a 'Chatham House Rule' basis<sup>1</sup>.

## Income and savings thresholds

**Recommendation 1: The Council should keep the income threshold at £60,000 per annum and the savings threshold at £30,000. However, this should be reviewed by the Resources Overview and Scrutiny committee or another appropriate O&S committee within 12-18 months.**

**Recommendation 2: Establish a process to signpost applicants who are unable to join the housing register due to the income or savings threshold to Affordable Home Ownership Schemes notably shared ownership.**

Both as residents of the Borough and people who do casework on behalf of other residents, the group members came into this process already aware that housing in Waverley is expensive. Nonetheless, reviewing the results of an affordability study conducted for the Council by external consultants gave them a more precise insight into the dimensions of this problem. The median income of a local worker is inadequate not only to purchase a property in the lower quartile of the price range, but also to rent it without facing significant financial strain as a result. The extent of this mismatch is such that it would only be ameliorated and not eliminated by the provision of housing for "Affordable Rents" (generally 80% of market rent). This gives rise to a strong argument for expanding access to social housing and allowing more families to avoid a private market which has become unaffordable for them.

With wider eligibility, the housing waiting list would become a better barometer of housing need within the borough. Both the wait time and the length of the waiting list give the public and decision-makers an intuitive sense of the scale of that need. For that reason, they are often used in advocacy and communications.<sup>2</sup> Given this, allowing the waiting list to expand might promote understanding of the need for additional social housing. Though it should be noted that there are other measures to use to gauge and communicate housing need such as Waverley's Affordability Study and data from the HomeBuy Agent.

Such a change, would also challenge what the Housing Overview & Scrutiny Committee's "[Council Housing: Pride or Prejudice](#)" report identified as the "*dominant view that professionals do not live in social housing*" and, if successful, address the related stigma attached to tenants in social housing.<sup>3</sup>

However, the Group's view is that in practice changing the income and savings thresholds would do little to widen access to council housing. Officers reported that it is already comparatively rare for applicants to have incomes or savings approaching the threshold to apply for inclusion on the Register. Rather than wider formal eligibility countering unwanted perceptions, it is more likely that unless tackled through other means, mistaken views about council housing will nullify the impact of wider eligibility.

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<sup>1</sup> "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed." <https://www.chathamhouse.org/about-us/chatham-house-rule>

<sup>2</sup> <https://www.local.gov.uk/about/news/housing-waiting-lists-could-double-next-year-one-10-stuck-queue-more-5-years-new>  
<https://www.housing.org.uk/news-and-blogs/news/the-real-social-housing-waiting-list-is-500000-more-than-official-figures/>

<sup>3</sup> [version 11 draft report \(waverley.gov.uk\)](#) p.16

Furthermore, the real constraint on the council's ability to house more tenants is the highly constrained supply of council homes. In this context, adding those with relatively greater resources to the Register would mean longer waits for those with less. It is also arguably unethical to build unrealistic expectations by encouraging people to join the waiting list who will realistically not rise to its top in the foreseeable future.

The Group also noted that even if buying or renting privately are not practical options for many households earning above £60,000, they are more likely than households earning below the threshold to be able to access alternatives such as Affordable Rent or Shared Ownership. However, residents should be made aware of these options. Therefore, there should be a process whereby default any applicants who are not unable to join the housing register due to their income or savings should be invited to apply for the Affordable Home Ownership Schemes.

As the Allocation Scheme is a living document and is updated as needs and legislation changes, the income and savings levels, along with other eligibility measures, will be kept under review by the Housing Delivery and Communities Service. This will continue to ensure that the Allocation Scheme helps those in most housing need in Waverley in the context of social housing supply and demand and achieving balanced communities. As already outlined in the Allocation Scheme, any recommended minor adjustments to the scheme are signed off by the Portfolio holder and Head of Service and more significant changes through the committee process.

## Co-parenting households

**Recommendation 3: Maintain the existing position that children will only be accommodated in one home even if a 50/50 residence arrangement exists. An exception will be made if there is a court order in place requiring this or if Surrey County Council Children's Services (or an equivalent organisation elsewhere) provide compelling evidence that a second home is required.**

The Group recognises that this will lead to an outcome which is far from ideal. No one would want to see some children going without their own bedroom half of the time, whilst others with a different family structure have one all the time. Therefore, in a situation where council housing was plentiful the Group's recommendation would be different.

However, given that there is a severe shortage of council homes, they cannot support allocating properties in way that leaves a bedroom unoccupied half the time. This is especially so given that the shortage is most acute for properties large enough to accommodate families. Therefore, there is a real risk that a policy choice, in effect, to allocate two bedrooms in two different properties for a single child would lengthen the time households will remain on the register before being offered a property.

The advice from our representatives from the voluntary sector is that this trade-off would not be welcomed even by co-parenting households, whose priority in most cases is apparently to secure stable accommodation which enables their children to continue attending the same school. Having fewer family-sized homes available would reduce the likelihood of the Council being able to deliver this.

## Applicants with debts to the Council

**Recommendation 4: Only housing related debts such as rent arrears and deposit scheme debts should be taken into account when considering eligibility for inclusion on the housing register and**

**allocation of housing. Other debts such as council tax or housing benefit overpayments would be disregarded for this purpose.**

**Recommendation 5: Given the administrative burden in checking debts and that the average time someone is on the register is 2-3 years, it makes sense that checks at application stage are more light touch given an applicant's debts status can change so much over time.**

**Recommendation 6: Establish a process by which the Housing Options team signpost applicants unable to join the housing needs register due to debts to local debt advice charities.** One of the representatives from a local third sector organisation warned the group that many local residents are facing a *"tsunami of debt coming from all directions"*. This reflects the ending of various formal and informal moratoriums on debt collection associated with the Covid-19 crisis and the drastic upswing in inflation. Therefore, members of the working group consider how the Allocation Policy deals with applicants in debt to be a key issue.

Currently housing applicants can be excluded from the housing register if they owe a debt to Waverley and have not maintained a repayment plan for at least 6 months. The debts considered are Housing related debts such as rents arrears and deposit scheme debts but also Council Tax and Housing Benefit over payment debts and any associated Court debts.

There are good reasons to have strong incentives for all Waverley residents, including those in or seeking Council housing, to settle debts with the Council. For example, investment in and maintenance of the Council housing stock is funded by tenants' rents. Therefore, rent arrears negatively impact all tenants.

However, the Group's view is that only those debts directly associated with the Council's housing operations should be taken into account when considering an application to join the housing register. Therefore, whether an applicant had unpaid Council Tax or overpaid Housing Benefit would not be checked. Performing any debt check represents a significant administrative burden on the Housing Options and Homechoice teams as with the exception of Council rent debt, the relevant information is not held by the housing service – but within the accounting software used by the Council. This system is designed for finance professionals and housing officers reported that both accessing it and interpreting the results was time consuming.

In this context, the Group find these extra checks hard to justify. Firstly, because there are other more robust mechanisms by which Council Tax and Housing Benefit debts owed to the Council can be recovered. The Group did not hear any evidence that additional housing register checks lead to appreciably higher rate of debt recovery. Secondly the group felt that a better balance needs to be struck between ensuring debts are repaid to the Council and meeting housing need. Some clients can be awaiting housing much longer due to struggling to reduce their debts to Waverley. As a result, they can be living in overcrowded accommodation that negatively impacts the welfare and educationally needs of children and their future life chances. By removing Council Tax and overpaid Housing Benefit from the Council's debt requirements (but retaining rent arrears and rent deposit scheme debts) there is an increased chance that the housing needs of the more vulnerable families in the borough can be met. This helps reduce the burden on other statutory and voluntary agencies in supporting these households and maintains a better balance between meeting housing need and holding applicants accountable for debt.

Additionally, the group noted that the current regime of financial checks creates a considerable admin burden. They are not only conducted at the point of application but also during the annual review and prior to an accommodation offer. Given that a typical applicant now spends years on the

register, this burden is multiplied many times over. A lighter touch approach would enable the team to concentrate resources on preventing homelessness and allocating homes, rather than checking the status of debts that will have little relevance by the time an applicant is likely to be rehoused.

Furthermore, the Group felt that if financial checks revealed an applicant was struggling with debts of any kind, then the Council has a responsibility to take positive steps to assist them. The Group would, therefore, wish to see a system in place to signpost these applicants to local charities and voluntary organisations which offer debt counselling.

## Local Housing Allowance in Farnham

Though the Group's focus was on the Council's Allocations Policy, the evidence gathered and the resulting discussions did also touch on associated issues. This gave rise to the recommendations below.

**Recommendation 7: The Chair of the Housing Allocations Group and the Chair of Resources Overview and Scrutiny to write a joint letter the Secretary of State for Housing, Levelling Up and Communities to reiterate the need for the importance of ensuring the Local Housing Allowance (LHA) rates properly reflect rents in Farnham.**

LHA rates determine the amount of housing benefit tenants renting from private landlords are eligible for. For LHA purposes, Farnham is part of the Blackwater Valley area, whereas Godalming, Haslemere and other parts of Waverley are in the Guildford area. The rates payable for the Blackwater Valley area are substantially lower than in the Guildford area. For a two-bedroom property, the difference is about £50 a week. Despite, this there is broad parity in the rents in Farnham and the rest of Waverley. This makes it difficult to accommodate households in receipt of housing benefits within Farnham. For those affected, this can be highly disruptive. For example, as discussed above parents are typically very reluctant to change their child's school if it can be avoided. Furthermore, the fiscal rationale for not rectifying this anomaly is weak. Housing officers reported that the solution is often to place households in the Guildford LHA area, where they can claim the higher rate.

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# Equality Impact Assessment Form



<b>Section 1 - What is the policy or activity trying to achieve?</b>	
Describe the policy/strategy/procedure/function which is the subject of this impact assessment.	Report from the Housing Allocations Task and Finish Group (Resources Overview & Scrutiny)
Name and telephone number of officer completing assessment	Mark Mills, 0148 352 3078
Date completed	27 <sup>th</sup> May 2022
What outcomes are wanted from this policy/activity, what are you trying to achieve?	<p>To use the Council's stock of housing in the fairest and most efficient means possible to address the housing need within the borough. To this end, the Task and Finish Group is recommending that only housing related debts such as rent arrears and deposit scheme debts should be taken into account when considering eligibility for inclusion on the housing register and allocation of housing. Other debts such as council tax or housing benefit overpayments would be disregarded for this purpose.</p> <p>The Group felt that this would strike a better balance between ensuring debts are repaid to the Council and meeting housing need. It would also reduce the administrative burden on the Housing Options and Homechoice teams associated with conducting checks.</p>
Who is affected by this policy/activity?	Potential applicants to join the Council's housing register
Who are the main people involved in this activity?	Housing Needs team
Is the responsibility for the proposed policy/activity shared with another department, authority or organisation? If so, what responsibility and with whom is it shared?	No

<b>Section 2 - Information Gathering and Consulting Stakeholders</b>	
Do you have any monitoring data available on the number of people (from protected characteristic groups) who are using or are potentially impacted upon by your policy/activity?	<p>Applicants to join the Housing Register are asked to provide monitoring information which covers demographic characteristics. This includes protected characteristics such as sex, age and ethnicity. However, response rates to these questions vary.</p> <p>In addition, information on applicants' medical histories is collected as part of the banding process. Therefore, it is possible to compile reports on the number of applicants whose banding is affected by a medical condition. However, it should be noted that though there is an overlap, having a medical condition does not necessarily mean that one would be classed as having a disability for purposes of the Equality Act 2010, or vice versa.</p>

If monitoring has NOT been undertaken or information is not available, specify the arrangement you intend to make; if not please give a reason for your decision.	N/A
What research or consultation has been undertaken to understand the impacts of the strategy/policy/procedure/project/function?	The Task and Finish group consulted local voluntary groups with practical experience of assisting applicants to join the housing register.

### Section 3 – Assess the Impact on Protected Characteristic Groups

Section 3 – Assess the Impact on Protected Characteristic Groups				
Sex				
	Positive impact (it could benefit)	Neutral	Negative impact (it could disadvantage)	Additional Comments
Women	X			The recommendations would remove a potential barrier to the Housing Register.
Men	X			The recommendations would remove a potential barrier to the Housing Register.
				The recommendations would remove a potential barrier to the Housing Register.
Gender Reassignment				
	Positive impact (it could benefit)	Neutral	Negative impact (it could disadvantage)	Additional Comments
Transgendered Men/Women	X			The recommendations would remove a potential barrier to the Housing Register.
Race - The categories used in the Race section are those used in the 2001 census. Consideration should be given to the needs of specific communities within the broad categories.				
	Positive impact (it could benefit)	Neutral	Negative impact (it could disadvantage)	Additional Comments
Asian	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 16% of those who consider themselves to be from a minority ethnic background report being behind on council tax payments vs 6% from a white background. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Black	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 16% of those who consider themselves to be from a Black or minority

				ethnic background report being behind on council tax payments vs 6% from a white background. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Mixed race	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 16% of those who consider themselves to be from a Black or minority ethnic background report being behind on council tax payments vs 6% from a white background. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
White	X			The recommendations would remove a potential barrier to the Housing Register.
Chinese	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 16% of those who consider themselves to be from a minority ethnic background report being behind on council tax payments vs 6% from a white background. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Gypsy, Roma, Traveller	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 16% of those who consider themselves to be from a minority ethnic background report being behind on council tax payments vs 6% from a white background. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Other racial or ethnic groups - specify	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 16% of those who consider themselves to be from a minority ethnic background report being behind on council tax payments vs 6% from a white background. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
<b>Disability</b> - Long term health impairment could include, mental health problems, asthma, heart conditions, chronic fatigue etc.				
	<b>Positive impact</b> (it could benefit)	Neutral	<b>Negative impact</b> (it could disadvantage)	Additional Comments

Physical	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 9% of those who consider themselves to have a disability report being behind on council tax payments vs 7% who do not. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Sensory	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 9% of those who consider themselves to have a disability report being behind on council tax payments vs 7% who do not. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Learning	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 9% of those who consider themselves to have a disability report being behind on council tax payments vs 7% who do not. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Long Term Health Impairment	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 9% of those who consider themselves to have a disability report being behind on council tax payments vs 7% who do not. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
Mental health	X			Nationally, the proportion of people with mental health problems who have missed a council tax payment is about 3 times higher than amongst those who do not have mental health problems. <a href="https://www.moneyandmentalhealth.org/wp-content/uploads/2021/11/Council-tax-policy-note.pdf">https://www.moneyandmentalhealth.org/wp-content/uploads/2021/11/Council-tax-policy-note.pdf</a>
<b>Sexual orientation</b>				
Heterosexuals, lesbians, gay men and bisexuals	<b>Positive impact</b> (it could benefit)	Neutral	<b>Negative impact</b> (it could disadvantage)	Additional Comments
	X			The recommendations would remove a potential barrier to the Housing Register.
<b>Age</b>				
	<b>Positive impact</b> (it could benefit)	Neutral	<b>Negative impact</b> (it could disadvantage)	Additional Comments

Older people	X			The recommendations would remove a potential barrier to the Housing Register.
Younger people and children	X			The estimate from a poll conducted by ICM unlimited of a nationally representative sample of UK adults is that 14% of 18–29-year-olds report being behind on their council tax payments vs 2% of those 50+. <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt and Money Publications/Unavoidable debt.pdf</a>
<b>Religion or belief</b> – Faith or belief groups cover a wide range of groupings, the most common of which are Buddhists, Christians, Hindus, Jews, Muslims, and Sikhs. Consider faith or belief categories individually and collectively when considering positive and negative impacts.				
Faith or belief groups	<b>Positive impact</b> (it could benefit)	Neutral	<b>Negative impact</b> (it could disadvantage)	Additional Comments
	X			The recommendations would remove a potential barrier to the Housing Register.
<b>Pregnancy and Maternity</b>				
Pregnancy and Maternity	<b>Positive impact</b> (it could benefit)	Neutral	<b>Negative impact</b> (it could disadvantage)	Additional Comments
	X			17% of parents with children aged 5 or under report being behind on their council tax bills according to a poll by ICM unlimited of a nationally representative sample of UK adults
<b>Marriage and Civil Partnership</b>				
Marriage and Civil Partnership	<b>Positive impact</b> (it could benefit)	Neutral	<b>Negative impact</b> (it could disadvantage)	Additional Comments
	X			The recommendations would remove a potential barrier to the Housing Register.
<b>Other groups</b>				
	<b>Positive impact</b> (it could benefit)	Neutral	Negative impact (it could disadvantage)	Additional Comments
Carers	X			The recommendations would remove a potential barrier to the Housing Register.
Socio-economic disadvantage	X			Difficulties paying council tax are inherently linked to financial hardship
If you have indicated there is a potential negative impact on any group, are these intentional and of a high impact?				
<b>Intended</b> – i.e. can be justified in terms of legislation e.g. concessionary fares for over 60s				
Yes <input type="checkbox"/> No <input type="checkbox"/>				
<b>High Impact?</b> – i.e. it is or may be discriminatory against some groups				
Yes <input type="checkbox"/> No <input type="checkbox"/>				

If there are no potential negatives impacts on any groups go to section 6

### Section 4 - Consider Alternatives or Changes

Change - Explain how policy/activity has changed/needs to change	Reasons for the Change

### Section 5 - Action Planning

Issue	Action required	Officer	Timescale	Resource implications	Comment

Section 6 Sign off	Name	Date
Name of Assessor:		
Signed off by:		
Name of HOS or Director		

### Further guidance

If you need more advice and guidance, you may find the following sources useful:

- [Government Equality Office: Equality Act guidance](#)
- [Equality and Human Rights Commission; Public Sector Duty](#)
- [Equality and Human Rights Commission: Protected Characteristics](#)

**WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE**

**6 SEPTEMBER 2022**

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**Title:**

**Update on the Museum of Farnham MEND Application**

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**Portfolio Holder:** Cllr Mirylees, Portfolio Holder for Health, Wellbeing, Parks and Leisure

**Portfolio Holder:** Cllr Merryweather, Portfolio Holder for Finance, Commercial and Assets

**Head of Service:** Kelvin Mills, Head of Commercial Services and Projects

**Key decision:** Yes

**Access:** Public / ~~Exempt~~ / ~~Part Exempt~~

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**1. Purpose and summary**

- 1.1 To provide an update on the Museum of Farnham's application for the Museum Estate and Development Fund (MEND) round 2.
- 1.2 The report briefly sets out the status of the project and the key challenges to be met to ensure the Council is in the best position to submit a compelling bid by 30 September 2022 deadline.
- 1.3 The application must include evidence that the level of partnership funding indicated in the Expression of Interest is secured or can be achieved prior to the project starting in April 2023.

**2. Recommendation**

It is recommended that the Executive agrees to the Council committing £100,000 of capital funding as a partnership contribution to an overall match fund commitment of £200,000.

However, if circumstances are as such that:

- I. The Council is awarded the full grant of £638,000 requested of MEND
- II. The legal and financial terms and conditions of grant are agreeable to the Council
- III. Every effort to obtain partnership funding from external sources has been explored

The Executive supports a recommendation in principle to the Council to make up the match funding shortfall based on a value for money appraisal and the identification of an available budget to enable the project to proceed to the construction phase.

### **3. Reason for the recommendation**

#### **About MEND**

The Museum Estate and Development Fund (MEND) is a capital fund to enable accredited museums to undertake vital infrastructure and urgent maintenance repairs to museum buildings. The fund is distributed by the Arts Council and supported by the DCMS, Historic England and the National Lottery Heritage Fund.

In 2021 Waverley submitted an expression of interest to MEND round 1, which was unsuccessful. To provide some context the Arts Council received 212 expressions of interest in round 1 and invited 50 museums spread across the country to make a full application. 31 projects went on to receive a MEND grant, of which 7 were based in the southeast region.

In April 2022 Round 2 was announced and the Council submitted an expression of interest. In late July we received notification that our expression of interest was successful, and that we could proceed to the full application stage. The deadline for a full application is 30 September 2022.

#### **Summary of the Museum of Farnham Mend Project**

The Council has requested £638,553 from MEND towards a total estimated project cost of £838,553. If successful, the funding will focus on the restoration of the high-level brickwork on the front façade of Wilmer House. In simple terms the gauged brickwork has reached the end of its life; the brick mouldings, cornice, window architraves and parapet wall are all displaying signs of deterioration. Poor repairs have been carried out in the past using incorrect materials (cement), the parapet wall is holding water and there is a bonding issue which means it is necessary to tie the ornate facing brickwork to the inner brickwork skin across the cavity as the original construction had minimal ties built in.

Due to the exceptional architectural quality of the building and the highly specialist nature of the repairs this complex restoration project must be led by a suitably qualified professional team that is supported by a conservation accredited building consultant.

#### **The MEND application process**

Being invited to apply for MEND 2 is a great achievement and a positive step forward for the museum. The application process demands a lot of information and a precision of detail in a short period of time, but the Council is well placed in having a strong professional team with a suitable track record of experience in historic building work.

The cost certainty of the project presents a challenge in the current economic climate of rising inflation and construction costs. As it was originally tendered in 2018 a cautious total cost estimate allowing for inflation was obtained in June 2022 based on a repricing exercise. However, to comply with procurement regulations all contractors and consultants involved in the construction phase will be competitively tendered once the outcome of MEND is known. This will provide accurate costings closer to the commencement of works and thereby creates an opportunity for the Council to make a final decision as to whether to proceed based on a calculation of all known risks and costs.



To increase our competitiveness at the expression of interest stage the Council forecast a match funding contribution of 24% of the total project cost which equates to £200,000. To date, we have only managed to secure a commitment of £10,000 from Farnham Town Council. Farnham Building Preservation Trust are keen to support the project, but their resources are contingent on the sale of a residential property which has recently fallen through. We are approaching The Pilgrim Trust who are a national charity supporting the conservation of historic buildings as well as The Georgian Society. We are also currently approaching Surrey County Council Councillors and several local civic societies including The Farnham Museum and District Society, The Cobbett Society, Farnham Institute, the Rotary Club, and the Lions.

The Council must provide evidence of the match funding we have secured for the project in the bid together with an achievable fundraising plan for the outstanding amount. All monies must be in place by the start of the project in April 2023.

### **Project Timeline**

#### **2022**

August	Prepare MEND bid
September 30	Submit Mend Bid
October – Dec	Fundraising

#### **2023**

January	Re survey condition to assess how it has shifted in 4 years
February	re specify scope of works and develop tender documents
March	Mend Outcome
April	run tender
May	Works commence

### **5. Relationship to the Corporate Strategy and Service Plan**

5.1 Securing the future of the museum building and service is a stated priority within the Council's 2022/23 service plan for Commercial Services.

### **6. Implications of decision**

#### **6.1 Resource (Finance, procurement, staffing, IT)**

The MEND application requires the council to commit to providing match funding. This is estimated at £200,000 based upon current repair estimates. This is not currently budgeted for and will have to be earmarked in the capital programme or revenue budget in 2022/23 or the 2023/24 budget depending on lead times. However, the sum required is not unreasonable to resolve the significant liability issue inherent with the ownership and operation of Wilmer House.

#### **6.2 Risk management**

6.2.1 A costed risk register is a mandatory requirement of MEND and is currently being developed. It will assess the risk of:

- Rising project costs
- Not achieving match funding levels
- Unacceptable terms and conditions attached to a MEND grant offer
- A significant shift in the scope of work and the repair options

- Procurement challenges

### **6.3 Legal**

6.3.1 The Council has the power under section 1 of the Localism Act 2011, known as the 'general power of competence' to apply for, accept and distribute grant funding.

6.3.2 Under 'Part 3 Responsibility for functions' of the Council's constitution, section '3.0 Responsibility for Executive functions' 'Policy issues' Executive has delegated authority to '(l) To make grants within the approved budgets to voluntary organisations and other outside bodies operating within the committee's responsibility including the Matched-Funding Scheme.' Further, under 'Leisure Issues' '(a) To advise the Council on major policy issues relating to the following functions: (vi) arts, museums, cultural and community activities and facilities (x) grants relating to all these areas. (b) To carry out, within the Council's policy and approved capital programmes and revenue budgets, subject to the conditions of delegation, the management of the above mentioned functions. (c) To make grants within the approved budgets to voluntary organisations and other outside bodies.' Further, under 'Strategic Planning Issues' 'To advise the Council on all matters of policy relating to the following functions: (ix) the administration of grants towards the preservation of listed buildings and buildings in conservation areas, or within the Farnham town scheme'.

6.3.3 If the Council is successful in obtaining the grant funding from MEND then it will be required to enter into a funding agreement which clearly sets out the terms of the funding and includes conditions and safeguards as appropriate to protect the Council's interests. All funding agreements, and any subsequent proposed changes, must be agreed by the S151 officer who must assess the risk and impact.

### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

### **6.5 Climate emergency declaration**

The museum must commit to measuring its environmental performance and achieve a reduction in carbon emissions if it is successful in attracting a MEND award. The project will identify any potential for sustainability technologies to be involved and create an argument for whole life cycle costs.

## **7. Consultation and engagement**

7.1 In March 2022 the Council held a workshop for local stakeholders. The aim was to present the findings of an options appraisal report and to test the validity of 3 key options which included transferring the museum to an existing trust, creating a new trust, or digitising the museum. The participants unanimously supported a physical base for the museum service and public ownership for Wilmer House. The Museum Working Group are acting on the key interests declared by the parties involved in the discussion. This in the early stages of development.

**8. Other options considered**

- 8.1 The Council has considered a variety of alternative options at great length. Achieving external funds to repair Wilmer House delivers the best outcome for the future of the museum and Farnham residents.

**9. Governance journey**

- 9.1 Executive briefing.

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**Background Papers**

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

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**CONTACT OFFICER:**

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Position:

Telephone: 0148 523399

Email: charlotte.hall@waverley.gov.uk

Agreed and signed off by:

Legal Services: 25 August 2022

Head of Finance: 25 August 2022

Strategic Director: date

Portfolio Holder: date

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**WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE**

**6TH SEPTEMBER 2022**

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**Title:**

**Brightwells Yard, Farnham – update**

**Confidential and Commercially Sensitive**

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**Portfolio Holder: Cllr Andy MacLeod, Portfolio Holder for Brightwells**

**Head of Service: Kelvin Mills, Head of Commercial Services**

**Key decision: Yes**

**Note pursuant to Section 100B(5) of the Local Government Act 1972**

The Annexes to this report contain exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, namely:

**Paragraph 3**

Information relating to the financial business affairs of any particular person (including the authority holding that information).

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**1. Purpose and summary**

To approve a Deed of Easement, between Waverley Borough Council, Crest Nicholson and BTR Farnham Limited.

Approve updates to the Head Lease Plan to reflect 'as built' position, in relation to the Brightwells Yard, Farnham scheme.

**2. Recommendation**

It is recommended that the Executive:

- approves the grant of the proposed Deed of Easement between the Council, Crest and BTR Farnham Ltd, as set out in Annexe 1 and that the Strategic Director is delegated to be able to agree easements on similar terms for those individual properties that request it and Thames Valley Metropolitan Housing.
- approves the updates to the Head Lease Plan as set out in Annexe 2.

**3. Reason for the recommendation**

To enable the development to progress towards practical completion (in accordance with the Development Agreement) as residential units are sold and commercial leases signed.

#### **4. Background**

4.1 Brightwells Yard is a Joint Venture development with Crest Nicholson to regenerate land at East Street. Developing 239 homes (72 or 30% shared ownership with Metropolitan Thames Valley Housing), 25 commercial units, a 6-screen cinema, a multi-storey car park and landscaped public green space.

4.2 Waverley Borough Council entered into a Head Lease with Surrey County Council in February 2018 for 150 years beginning on 25 December 2017 which followed the Council first entering into a Development Agreement with Crest Nicholson in 2003. That Agreement having been subsequently varied on a number of occasions – most recently in February 2018.

4.3 There is then an Internal Underlease from Surrey County Council to Crest Nicholson for the 150 years less 3 days beginning on 25 December 2017.

#### **5. Relationship to the Corporate Strategy and Service Plan**

The Brightwells development supports the strategic priority:

- *a strong, resilient local economy, supporting local businesses and employment*
- *housing to buy and to rent, for those at all income levels*

#### **6. Implications of decision**

##### **6.1 Resource (Finance, procurement, staffing, IT)**

The Project Manager at Waverley works closely on all aspects of the Brightwells Development. A Senior Planning Officer also works closely on the scheme to enable planning decisions to be made swiftly.

Changes to legal documents will be overseen by the Borough Solicitor in consultation with the Head of Service and external legal support (paid for by Crest).

##### **6.2 Risk management**

A Risk Register is kept up to date and reviewed by the Project Manager and Officer Working Group on a regular basis. Risk and mitigation is discussed in detail at Programme Board meetings.

##### **6.3 Legal**

This report has been drafted with external legal support from Sharpe Pritchard. Options considered and legal implications are set out within the body of the report and its Annexes.

##### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council

to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

#### **6.5 Climate emergency declaration**

The residential units at Brightwells Yd will not have gas heating installed, and solar panels have been utilised in the development.

The changes proposed by OakTree who are purchasing the units include upgrades to products to improve longevity and energy efficiency.

#### **7. Other options considered**

The options for alternative legal solutions are set out in the report. If the Council does not agree to a flexible solution to the changes required to the various lease arrangements agreed in 2018, this is likely to affect the success of the Brightwells scheme.

#### **8. Governance journey**

Executive on 6 September.

#### **Annexes:**

Annexe 1 – Detail regarding the Easement

Annexe 2 – Head Lease changes

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#### **Background Papers**

There are / 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: Kelvin Mills, Head of Commercial Services,  
Legal Services: Georgina Parke,  
Head of Finance: Peter Vickers,  
Strategic Director: Graeme Clark,  
Portfolio Holder: Cllr Andy MacLeod

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