



# AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT (SPD)

February 2023



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## 1. Introduction

### What is a Supplementary Planning Document?

- 1.1 Supplementary Planning Documents (SPDs) are intended to explain or provide further detail to policies or site allocations in a Local Plan document. They can take the form of design guides, area development briefs, master plans or issue-based documents. They will be used in deciding planning applications and will help the Council defend its decisions at appeals.
- 1.2 The planning policies adopted by Colchester City Council enable the Council to ask developers to provide affordable housing on site or make a financial contribution towards it. The purpose of this SPD is to give clear guidance on the Council's expectations for the provision of affordable housing and the process for delivering this.
- 1.3 This SPD is a material consideration in the determination of planning applications.
- 1.4 The SPD does not contain any new policies but provides detailed guidance to supplement policies in the Colchester Local Plan and the revised National Planning Policy Framework (NPPF) published in July 2021.
- 1.5 The aim of this document is to help guide the delivery of affordable housing in Colchester which will help to meet the strategic vision and objectives of the Colchester Local Plan by supporting the creation of a sustainable long-term future for communities.
- 1.6 This SPD will replace the Colchester Borough Council Affordable Housing SPD, August 2011.

### Sustainability Appraisal

- 1.7 A Sustainability Appraisal (SA) Report has been prepared for the Local Plan which appraises the policies this supplementary guidance relates to. This can be viewed [online](#).
- 1.8 An SEA Screening Opinion and Habitats Regulations Screening has been undertaken for this SPD. These opinions can also be viewed online.

## 2. Affordable Housing Definition

### 2.1 Affordable Housing is defined in the NPPF 2021 as the following:

“Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

**a) Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government’s rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

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

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

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

2.2 The terms 'affordability' and 'affordable housing' have different meanings. 'Affordability' is a measure of whether housing may be afforded by certain groups of household, with reference to local incomes and house prices. 'Affordable housing' refers to particular products outside the main housing market.

## 3. Policy Context

### National Policy

- 3.1 The NPPF 2021 provides the national policy context for the provision of housing, this is further supported by Planning Practice Guidance (PPG). The relevant sections of the PPG include those that relate to First Homes, Housing Needs of Different Groups and Planning Obligations. The PPG is an on-line resource and is updated as required.
- 3.2 Chapter 5 of the NPPF '*delivering a sufficient supply of homes*' outlines the government objective of boosting the supply of homes, this includes ensuring the needs of groups with specific housing requirements are addressed.
- 3.3 Paragraph 62 states that "*the size, type and tenure of housing needed for different groups in the community should be addressed and reflected in planning policies (including but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).*"
- 3.4 Paragraph 63 outlines that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (as outlined by the definitions shown in Annex 2 of the NPPF and replicated in Chapter 2 of this SPD) and expect it to be met on site unless:
- Off-site provision or appropriate financial contribution in lieu can be robustly justified; and
  - The agreed approach contributes to the objective of creating mixed and balanced communities.
- 3.5 The provision of affordable housing can only be sought for major developments, unless in designated rural areas (planning policies can provide a threshold). Where vacant buildings are being reused or redeveloped, affordable housing contributions should be proportionate (paragraph 64 of NPPF). Footnote 30 clarifies that this contribution should be equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.
- 3.6 Paragraph 65 states that major development involving the provision of housing, should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing requirement in the area or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should be made where the development proposes:
- Solely Build to Rent homes;
  - Specialist accommodation for groups of people with specific needs;

- Developed by people who wish to build/commission their own homes; or
- Exclusively for affordable housing, an entry level exception site or a rural exception site.

3.7 Paragraph 78 also advises that a Rural Exceptions Site policy may be appropriate to provide for the local housing needs of rural communities.

## First Homes

3.8 The Government introduced a new initiative known as First Homes via a Written Ministerial Statement and updates to the PPG with affect from 28 June 2021.

3.9 First Homes are a specific type of discounted market sale housing. The national standards for a First Home are that:

- a) It must be discounted by a minimum of 30% against the market value;
- b) After the discount has been applied, the first sale must be no higher than £250,000 (or £420,000 in Greater London); and
- c) The home is sold to a person who meets the First Home eligibility criteria.

3.10 First Homes are considered to meet the definition of 'affordable housing' for planning purposes and will form part of developer contributions to meet the local planning authority's affordable housing policy requirement.

3.11 Transitional arrangements are in place which mean that the First Home policy requirements would not apply to Local Plans and Neighbourhood Plans if submitted for examination before 28 June 2021.

3.12 As the Colchester Local Plan was submitted for examination during the transitional period in October 2017, it was not required to reflect the First Homes policy.

3.13 As set out in the Written Ministerial Statement (and PPG Paragraph: 019, Reference ID: 70-019-20210524), where Local and Neighbourhood Plans are adopted under the transitional arrangements, the First Homes requirements will not need to be applied when considering planning applications in the Plan area until the First Home requirements are introduced through a Local Plan update or review.

3.14 As the Colchester Local Plan was examined under the transitional arrangements for Local Plans, the transitional arrangements for decision making will also apply. Therefore, planning applications in Colchester, will not be required to include First Homes until such time as the Local Plan is updated. This will also apply for entry level exception sites.

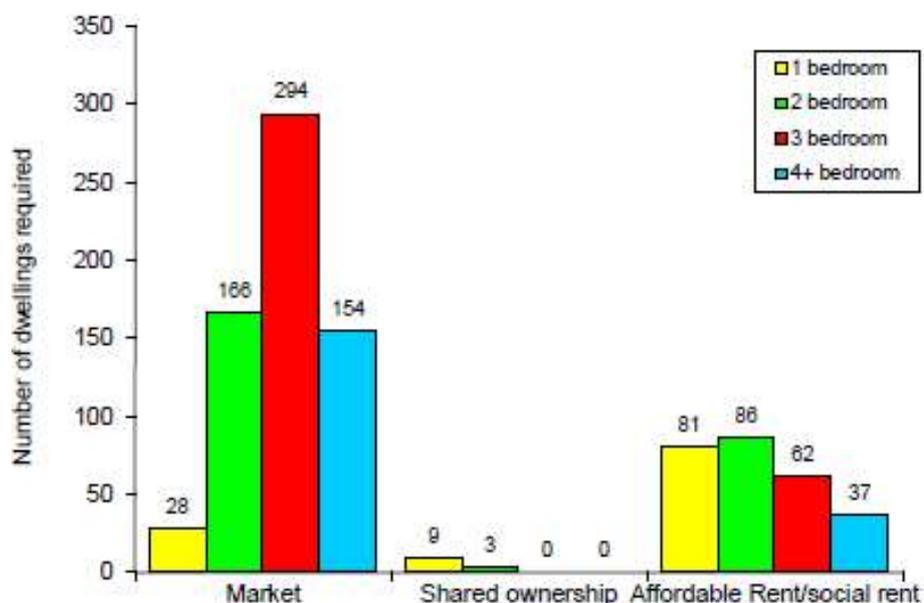
## Colchester Local Plan

- 3.15 Colchester City Council has a unique situation with regard to plan making. The Council worked in collaboration with Braintree and Tendring District Councils on strategic cross boundary issues for North Essex. This resulted in a strategic Section 1 of the Local Plan which is shared by all three Local Planning Authorities. The Section 1 Local Plan was adopted on 2 February 2001.
- 3.16 Section 2 of each authorities Local Plan includes individual policies and allocations specific to each authority. The Colchester Local Plan Section 2 was adopted on 4 July 2022.
- 3.17 The Colchester Local Plan Section 2 informs development across the Council's administrative area for the period 2017 to 2033 and includes new housing allocations to meet the predicted growth of the City over that period.
- 3.18 Policy DM8 – Affordable Housing, provides guidance on the local requirement for affordable housing, including a 30% affordable housing provision on sites of 10 or more dwellings (major development) in urban areas and above 5 units in designated rural areas. This reflects the updated Strategic Housing Market Assessment and evidence on the overall quantum of housing requirements contained in the Objectively Assessed Housing Need Study. The Policy was also informed by viability work. Further detail is contained in Chapter 4 below.
- 3.19 A Full extract of Policy DM8 can be found in Appendix B.

## 4. Evidence Base

- 4.1 In 2015 the Braintree, Chelmsford, Colchester and Tendring Housing Market Area updated the report for both the [Objectively Assessed Housing Needs Study \(OAN\)](#) (Peter Brett Associates, July 2015) and [Strategic Housing Market Assessment Update \(SHMA\)](#) (HDH Planning and Development Ltd., December 2015). The OAN Study was further [updated](#) in November 2016 (Peter Brett Associates) to review the findings of the original report in light of new evidence and produce a revised housing needs assessment for the same period 2013-2037. This ensures compliance with paragraph 47 and 50 of the NPPF 2012. It should be noted that as the Local Plan was submitted before 24<sup>th</sup> January 2019, the standard methodology was not used within these reports.
- 4.2 The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 278 affordable dwellings (266 rent and 12 shared ownership) per year between 2013 and 2037 (based on an OAN housing need figure of 920 dwellings per annum). See Figure 1 below. The SHMA also outlines that an additional 94 sheltered and extra care housing units should be provided annually within the identified OAN. However, the total is dependent on future patterns of demand amongst potential residents of this accommodation increasing notably beyond current levels.

Figure 1: Annual requirement for all new housing in Colchester (SHMA Update, 2015).



- 4.3 The SHMA concludes that a figure of 30-35% affordable housing provision would be appropriate.
- 4.4 To support the Local Plan, a [Viability Assessment](#) by Hyas (April 2017) and [Economic Viability Study](#) for Colchester by The Three Dragons and Troy Planning +

Design (June 2017) were prepared. Both reports demonstrate that the Local Plan Policies in relation to affordable housing provision requiring 30% for new dwellings of more than 10 units and the Garden Communities are financially viable and achievable.

- 4.5 The Economic Viability Study for Colchester also found that a requirement of 30% affordable housing for sites of 6 to 10 units in designated rural areas is achievable.
- 4.6 The study modelled affordable housing at 30% and 35% in line with the recommendations from the SHMA. A value lower than this was not assessed due to initial findings demonstrating this was not necessary. The affordable units were split 80/20 between rented and shared ownership tenure as this best reflects the requirements of the registered providers to develop affordable housing schemes that meet their financial criteria whilst addressing the high need for affordable rented tenure identified in the SHMA.
- 4.7 The [Housing White Paper](#) (February 2017) suggested that all sites over 10 dwellings may have to meet a requirement for 10% of units to be affordable home ownership. This requirement was included in the 2019 NPPF, as paragraph 64 states that where major development includes the provision of housing, at least 10% of the homes should be available for affordable home ownership (as part of the overall affordable housing contribution from the site). At the time of the Economic Viability Study, this was not reflected in national policy, however the requirement was considered in the assessment as a result of the Housing White Paper. Viability of the schemes assessed in the study would not be affected for sites over 10 dwellings providing 10% affordable home ownership. For smaller sites the proportion of intermediate units may need to be increased, but this will not have an adverse impact.
- 4.8 The SHMA indicated a shortfall for all accommodation sizes with the greatest net need varying upon tenure type. For market housing, the greatest need is for three-bedroom properties, for affordable rent/social rent the greatest need is for two-bedroom properties and for shared ownership its one-bedroom properties. The Council consider this overall need is best met if the affordable housing provision is informed by the latest assessment of local market conditions, the overall housing mix of the scheme, housing need and shortages relative to supply in determining the optimum affordable housing mix.

## 5. Delivery of Affordable Housing

- 5.1 The Council will expect the provision of affordable housing for sites above the policy thresholds to be provided on the proposed development site. The Council also expects that affordable housing should be provided without any form of public subsidy.
- 5.2 Affordable housing will be expected to be delivered on new build sites and when buildings are converted to a residential use or where a change of use is made from any residential use with shared facilities (such as bed-sit accommodation, or a care home) to independent residential units with separate facilities. Units may also be created when a private dwelling is converted into flats. The policy will apply in these circumstances to any net increase where the resulting number of units is above the threshold.
- 5.3 Negotiation with the applicant will be undertaken to confirm the final mix of affordable housing types/tenure. In schemes over 15 units, affordable housing should be provided in more than one single parcel. The affordable housing mix on any site should normally be “pepper potted” throughout the scheme in groups, the size and location of which should be discussed and agreed with the Council.
- 5.4 The affordable housing provision should proportionally reflect the dwellings provided on the overall scheme, however this should be informed by the latest assessment of local market conditions, housing need and shortages to determine the most appropriate mix.
- 5.5 Proposals that, in the opinion of the Council seek to under-develop or split sites into smaller land parcels in order to avoid providing affordable housing on site will be refused planning permission unless a proportionate number of affordable units are provided.
- 5.6 The Council has an ongoing need for affordable housing for wheelchair users. In accordance with Policy DM12; 95% of affordable housing should meet a minimum of Building Regulations Part M4 Category 2 and 5% of affordable homes should meet Part M4 3 (2) (b) or Part M4 3 (2) (a) as agreed with the Council in accordance with identified need. Further information regarding specialist residential accommodation, will be provided in the Self and Custom Build and Specialist Housing SPD.

### Calculating Number of Affordable Units

- 5.7 Allocations within the Local Plan are expected to comply with Policy DM8 which requires 30% affordable housing for developments of 10 or more dwellings.
- 5.8 The number of dwellings to be provided as affordable housing in any one instance will be calculated by rounding up to the nearest whole number.
- 5.9 The affordable housing mix should be no less than 80% affordable rent or social rent and no more than 20% as other affordable tenures including shared ownership and other routes to home ownership. Regard will also be had to the requirements of

paragraph 65 of the NPPF and the Colchester affordable housing need.

5.10 The affordable housing provision applies to the total number of dwellings across the development; it does not only apply to the part of the development above the relevant threshold.

5.11 Examples of calculating the number of affordable houses is outlined in Table 1 below.

Table 1 – Affordable Housing Calculation Examples

<b>AF Requirement</b>	<b>Total Units</b>	<b>Calculation</b>	<b>Affordable Units Required</b>
30%	6	$6 \times 30/100 = 1.8$	2
30%	30	$30 \times 30/100 = 9$	9

### Off Site Affordable Housing and Commuted Sums

5.12 In exceptional circumstances the Council may accept that on-site provision is not appropriate, for example where there is a proposal that includes a significant proportion of studio-flats or bed-sits, which do not meet affordable housing needs.

5.13 In these circumstances, the provision of affordable units elsewhere will only be acceptable where each of the following are met:

- An alternative site or sites have been identified which would enable affordable housing provision that matches what would have been provided on the original site and is appropriate to the identified local housing needs to be met;
- The alternative site(s) can deliver the off-site provision in an appropriate timescale and in an appropriate locality elsewhere within the administrative area of the City;
- The off-site affordable housing provision is deliverable prior to the on-site market development being completed;
- The number of affordable units will reflect the benefit the applicant gains through using 100% of the site for market housing compared with on-site affordable housing is provided; and
- The off-site provision will be in addition to the affordable housing that would normally have been required for the alternative site.

5.14 In circumstances where the Council accepts that the provision of affordable housing cannot be provided on site and an alternative site is not available or acceptable to the Council, the applicant will be required to pay a commuted sum (financial contribution) to the Council to be spent to provide affordable housing elsewhere in the Council's administrative area.

5.15 The level of payment in the form of a commuted sum will be based on the difference between the open market value for a similar size and type of property in the same area; and the transfer price paid by the registered provider. This is established on a case by case basis. When calculating the appropriate commuted sum, the mix, ratio

and type of dwellings will also be taken into account as if the units were to be provided on site to ensure that this as far as possible accurately replicates the cost of provision on site. See Table 2 below for example calculation.

Table 2 – Commuted Sums Example Calculation

Dwelling Type	Open Market Value	Transfer Price	Commuted Sum
Three Bedroom House	£370,000	£233,000	£233,000

## Affordable Rents

- 5.16 The Economic Viability Study, which supports the Colchester Local Plan uses the Local Housing Allowance (LHA) rates within the assessment for various affordable rent properties. The LHA is set by the Valuation Office Agency, this can be found online via the Government [website](#) for each local authority and property type. Affordable Rents should therefore be capped at the LHA rate. This would apply to all affordable rent properties across the Council’s administrative area.

## Viability

- 5.17 Developers should factor prospective planning obligations and contributions as well as other predictable development costs into land price negotiations. The provision of affordable housing will have an impact on the value of land for residential development, but this in isolation will not generally result in the development being uneconomic when compared to existing use value.
- 5.18 Paragraph 2 of the viability section of the Planning Practice Guidance (PPG) outlines that “*policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the decision making stage*”. As such, the Council does not expect viability to be an issue at the decision-making stage for allocations within the Local Plan, as sites are expected to have been proven deliverable through plan making. Further viability assessments should therefore not be necessary to support a planning application.
- 5.19 Where there are concerns about viability, applicants are encouraged to consult with the Council at an early stage, to consider how any such constraints and barriers to delivery can be reduced.
- 5.20 A viability assessment evidencing the identified level of housing need, financial viability or deliverability, will be expected as part of any residential planning application where a policy compliant level of affordable housing is not included. In accordance with paragraph 58 of the NPPF, all viability assessments will be made publicly available via the planning portal as part of the documents submitted in support of a planning application. The assessment will be scrutinised by the

Council's approved viability assessor, at a cost to be borne by the applicant, and form part of the decision-making process in accordance with national planning policy and guidance.

- 5.21 Where it is demonstrated that the scale of affordable housing provision and other policy burdens would result in the proposed development not being financially viable, the Council may consider a lower contribution, in exceptional circumstances only.

### Exceptions to Affordable Housing Policy

- 5.22 Certain forms of residential accommodation will not be subject to the provision of affordable housing or a financial contribution towards it. These will include care homes, hostels, student housing, residential schools and colleges (where the accommodation is directly linked to educational facilities on site) and military housing, provided that the proposed accommodation does not fall within use class C3 and, that a planning condition is to be imposed limiting the accommodation to these specific users. The provision of any of these forms of residential accommodation will not count towards the overall provision of affordable housing within the Council's administrative area. Any self-contained use class C3 units (dwelling houses) provided as part of these proposals will be expected to comply with the affordable housing requirements.
- 5.23 Replacement single dwellings will not need to make provision, unless additional dwelling units above the thresholds are being created. Where additional units are being created, then the affordable housing calculation will be applied across the whole site to the net increase in dwelling numbers where policy compliant.
- 5.24 Extensions to existing dwellings will not need to make a contribution; unless separate units of accommodation with their own facilities, above the thresholds, are being created and this is not for use by a dependent relative of the occupants of the main dwelling.

### Rural Exception Sites

- 5.25 Policy DM8 supports affordable housing development on rural exception sites. However, these must be sites that are contiguous with or adjacent to existing village settlement boundaries and address a local need that has been robustly demonstrated by way of a local housing needs survey and development is supported by the Parish Council on behalf of their residents.
- 5.26 The Rural Community Council for Essex (RCCE), an independent charity, employs a Rural Housing Enabler who works with rural communities, providing independent advice and support, acting as a facilitator and helping them through the process of providing affordable housing. The Rural Housing Enabler has the appropriate level of expertise to carry out a Local Housing Needs Survey, that will establish how many people in the parish need housing and the most appropriate tenure. This information is needed to support a planning application for rural exception housing.

- 5.27 The Council encourages all applicants proposing affordable housing on rural exception sites to work with a registered provider that supports the work of the Rural Housing Enabler employed by the RCCE. These registered providers have experience in delivering affordable housing in rural areas and work within an agreed framework.
- 5.28 To inform the prioritisation and allocation of dwellings in rural areas, the survey analysis should identify types of local connection that households in housing need have within the Parish.
- 5.29 The Local Housing Needs Survey should be up to date and reflect the current needs of the area. A Local Housing Needs Survey which predates the planning application by five or more years will not be considered adequate to support a development proposal.
- 5.30 It is expected that the proposed dwellings will all remain permanently available to local people on low incomes who cannot afford market housing. Proponents of the scheme (developers/landowners/housing associations etc.) will need to enter into a Section 106 Agreement with the Council to ensure they remain permanently available to local people on low incomes.
- 5.31 The dwellings will be allocated to persons with a local connection to the Parish who are in need of an affordable dwelling and are unable to obtain a property on the open market.
- 5.32 The mechanism for allocating the dwellings will be specified in the S106 Agreement. This will prioritise applicants with a local connection in the first instance and will be agreed between the Local Authority and the Parish Council on a scheme by scheme basis.
- 5.33 In order to ensure that the units remain permanently available as affordable housing, on each occasion that it is necessary to reallocate any of these units, the procedure for allocation will follow the same principles set out above. In the instance where there is no need within the Parish, this will be cascaded to an adjoining Parish within the City Council's administrative area.
- 5.34 In the event that national policy enables the Council to act as a proponent of an affordable housing scheme on a rural exception site (in the manner identified in paragraph 5.30 above), the same requirement for the affordable homes to be permanently available to local people on low incomes shall be applied.
- 5.35 In order for the Council to assess if an open market element of a rural exception site is justified, any proposal including this must also provide a robust, independently prepared and audited viability assessment of the proposed development. The extent of the funding gap to be bridged in order for the proposal to be viable, including the income from cross-subsidy generated through open-market sales, that will assist in creating the additional scheme revenue that can fund the affordable housing on the site without requiring additional public subsidy, should be clearly set out. As outlined in paragraph 5.20 above, the assessment will be scrutinised by the Council's approved

viability assessor, at a cost to be borne by the applicant, and form part of the decision-making process in accordance with national planning policy and guidance.

## Vacant Building Credit

- 5.36 Vacant building credit was introduced to promote development on brownfield sites. It allows the floorspace of existing buildings that are to be redeveloped to be offset against the calculations for section 106 affordable housing requirements. It applies to any building that has not been abandoned and is brought back into any lawful use or is demolished to be replaced by a new building.
- 5.37 The PPG explains that existing gross floorspace (assuming it has not been abandoned) should be credited against that of the new development. Where there is an overall increase in floor space in the proposed development, the local planning authority should then calculate the amount of affordable housing contribution or provision required from the development as set out in their local plan on the basis of that additional floorspace.
- 5.38 The example given in the PPG is as follows: *'where a building with a gross floorspace of 8,000 square metres is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought'*.
- 5.39 For example, the revised affordable housing calculation for a proposal of 60 dwellings including 4,500sqm proposed gross internal area, where the existing vacant gross internal area is 3,000sqm equates to a 33% difference. This would result in the requirement of 6 affordable dwellings (the remaining 54 units would be market dwellings).
- 5.40 For wholly residential schemes, the total proposed gross internal area will be the area of all dwellings. Where flatted development is included within the development, the proposed gross internal area will include all communal and circulation areas. For mixed use schemes, the proposed gross internal area of the proposed residential elements will be included.
- 5.41 Where the revised affordable housing sought does not result in whole numbers, the number of affordable dwellings will be rounded up to the nearest whole number to achieve the required percentage provision.

## 6. The Planning Process

- 6.1 Prospective applicants are encouraged to discuss their proposals at the earliest possible stage; through a preliminary enquiry (pre-application advice). Further information about this can be found on our [website](#).
- 6.2 Engaging in a preliminary enquiry allows the design and potential 'heads of terms' of the S106 Agreement to be factored into the formulation of the development proposals at an early stage and can save time later in the process.
- 6.3 As part of the submission of a planning application on above threshold - level sites, the Council will expect an affordable housing statement. This should provide details of the number, mix, tenure, unit sizes (including number of bedrooms and persons) of affordable homes and how this reflects the overall mix, etc, along with the location of these units within the site. Applications should refer to the proportion of affordable units, specify how the mix and tenure will reflect that of the scheme as a whole and, express willingness to pepper pot across the site.
- 6.4 Where an application is received in outline, the appropriate contribution will be reserved through a planning obligation, so that it can be resolved when a detailed or reserved matters application is made, when the size of the development and the appropriate level of contribution will be known.
- 6.5 In addition to the provisions of this SPD, proposals for new housing will also be considered having regard to other relevant local policies, which include requirements for other planning contributions. Applicants are advised to seek preliminary advice from the Council where there is any doubt as to the policy considerations that will apply, prior to formally submitting their planning applications, to ensure all relevant policies are addressed.

## 7. Planning Obligations

- 7.1 In accordance with paragraph 55 of the NPPF, Local Planning Authorities should consider where unacceptable development could be made acceptable through the use of planning obligations, where it is not possible to address the unacceptable impact through planning conditions.
- 7.2 Under section 106 of the Town and Country Planning Act 1990, the following obligations may be secured to mitigate the impacts of a development proposal, in terms of specific housing details:
- Precise scale and scope of the form, delivery and management of the affordable housing in relation to the specific circumstances of the development. This can include:
    - The number, size, tenure and siting of the affordable housing;
    - The phasing of the development;
    - Appropriate trigger points for the provision of affordable housing to an affordable housing provider, to ensure that it is provided in a timely manner in relation to the market housing and delivered in full before an agreed percentage of the market housing has been completed;
    - Eligibility and allocation restrictions on occupancy or disposal to meet local housing need;
    - Mechanisms for ensuring that the affordable housing dwellings are used solely and exclusively for affordable housing in perpetuity;
    - Compliance with public subsidy funding conditions when public subsidy is allocated;
    - Provision of a financial contribution where applicable;
    - Ensure intermediate affordable units for shared ownership (sale) remain affordable;
    - The Council expect that the ownership of the affordable housing units will be transferred to a Housing Association/Registered Provider.
- 7.3 The Council will draw up the S106 Agreement and any related nomination agreement. The Council's legal costs related to these, will be payable by the developer on an indemnity basis on completion of the S106 Agreement.
- 7.4 Proposed variations to the terms of a completed S106 can only be agreed by a deed of variation. Requests to vary agreements should be made to the planning officer in the first instance. The full costs of the variation are payable by the applicant.

## Appendices

### A. Glossary

**Development Plan** – This includes adopted Local Plans and Neighbourhood Plans, as defined in section 38 of the Planning and Compulsory Purchase Act 2004. The Development Plan is the starting point for decision making.

**Financial Contribution** – The sum of money that a landowner or developer is required to pay to the Council to ensure the delivery of services and infrastructure, including affordable housing, needed as a result of planning permission being granted.

**Homes England** – An executive non-departmental public body to accelerate housing.

**Housing Association** – Independent societies, bodies of trustees or companies established for the purpose of providing low-cost social housing for people in housing need. See Registered Provider.

**Nomination Agreement** - An agreement negotiated between the Council and a Registered Provider which guarantees the Council's ability to access Registered Providers owned new build accommodation for applicants on the Council's Housing Register.

**Preliminary Enquiry** – An enquiry submitted to the Council in writing in advance of a planning application being submitted, to obtain an informal officer view on the likelihood of obtaining planning permission and any particular requirements and/or planning obligations that the Council is likely to seek for the proposal.

**Registered Provider** – A provider of social housing, registered with Tenant Services Authority under powers in the 2008 Housing and Regeneration Act. This term encompasses housing associations, trusts, cooperatives and companies.

**Rural Housing Enabler** – A Rural Community Council of Essex (RCCE) employee who works with rural communities providing independent advice and support, acting as a facilitator and helping them through the complicated process of providing affordable housing.

**Regulator of Social Housing** – regulation of providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs.

**Section 106 Agreement** - Legal agreement under Section 106 of the Town and Country Planning Act 1990. Used as a means of securing the provision of affordable housing and other contributions.

**Strategic Housing Market Assessment (SHMA)** – A Strategic Housing Market Assessment is a comprehensive study of the local housing market, using surveys and involving wide ranging stakeholder participation, to produce an assessment of housing needs and market housing within the local area.

**Social Housing** - Housing that is cheaper to rent, than privately rented housing and usually provides a longer term tenancy.

**Staircasing** – The facility that enables a householder to purchase an increased proportion of a shared ownership (intermediate affordable) dwelling.

**Statement of Community Involvement (SCI)** - This sets out the standard that the Local Planning Authority intend to achieve in relation to involving the community and all stakeholders in the preparation, alteration and continuing review of all Local Development Plan Documents and in significant planning applications, and also how the local planning authority intends to achieve those standards. The SCI will not be a Development Plan Document but is subject to independent examination.

**Supplementary Planning Document (SPD)** – A document produced by the Local Planning Authority to add further detailed guidance and information on a particular subject such as Sustainable Construction or Housing. An SPD is subject to a formal consultation period and then is used as a material consideration when determining planning applications.

## B. Colchester Local Plan Section 2 Policy DM8 – Affordable Housing

The Council is committed to improving housing affordability in Colchester. Accordingly 30% of new dwellings (including conversions) on housing developments of 10 or more dwellings (major developments) in urban areas and above 5 units in designated rural areas (in accordance with Planning Policy Guidance), should be provided as affordable housing (normally on site).

Where it is considered that a site forms part of a larger development area, affordable housing will be apportioned with reference to the site area as a whole.

This level balances the objectively assessed need for affordable housing in the Borough established by the evidence base, against the requirement for flexibility to take account of changing market conditions. At present the overwhelming need in Colchester is for affordable rented properties, which should be reflected in development proposals. For sites where an alternative level of affordable housing is proposed below the target, it will need to be supported by evidence in the form of a viability appraisal.

In exceptional circumstances, where high development costs undermine the viability of housing delivery, developers will be expected to demonstrate an alternative affordable housing provision.

The Local Planning Authority will require developments to integrate affordable housing and market housing, with a consistent standard of quality design and public spaces, to create mixed and sustainable communities. The affordable housing provision should proportionately reflect the mix of market units unless otherwise specified by the Local Planning Authority. In schemes over 15 units the affordable housing should be provided in more than one single parcel. Elsewhere the affordable housing mix on any site should normally be “pepper potted” throughout the scheme in groups, the size and location of which should be discussed and agreed with the Local Planning Authority.

Affordable housing development in villages will be supported on rural exception sites adjacent or continuous to village settlement boundaries or where it will enhance or maintain the vitality of rural communities, provided a local need is demonstrated by the Parish Council on behalf of their residents, based on evidence gained from an approved local housing needs survey. A proportion of market housing which facilitates the provision of significant additional affordable housing may be appropriate on rural exception sites. Information to demonstrate that the market housing is essential to cross-subsidise the delivery of the affordable housing and that the development would not be viable without this cross-subsidy will be required. At the scheme level, the number of open market units on the rural exception site will be strictly limited to only the number of units required to facilitate the provision of significant affordable housing units on a rural exception site. The number of affordable units and total floorspace on a site should always be greater than the number of open market units or floorspace. The actual number will be determined on local circumstances, evidence of local need and the overall viability of the scheme.