


**3rd October 2022**

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| <b>Report of</b>      | <b>Assistant Director of Policy and Cooperate</b>         | <b>Author</b> | <b>Bethany Jones</b><br> <b>282541</b> |
| <b>Title</b>          | <b>Affordable Housing Supplementary Planning Document</b> |               |   |
| <b>Wards affected</b> | All wards affected  |               |   |

## **1. Executive Summary**

- 1.1 Local Planning Authorities are able to request affordable housing from planning applicants to meet the needs of different groups within the community in line with paragraph 62 of the National Planning Policy Framework (NPPF).
- 1.2 There are many factors which need to be considered during the planning application process as there are many scales and locations of development where different provisions are required. To ensure consistent and effective guidance, the Council prepares Supplementary Planning Documents (SPDs). An Affordable Housing SPD has been prepared due to its national and local level of importance. It is intended to consult on the SPD for a six week period. Comments received will then be considered and the SPD will be returned to the Local Plan Committee for adoption.
- 1.3 This SPD was originally produced in 2020 with a consultation that commenced in January 2020. Based on the feedback from the consultation, it was decided that the SPD should not be further advanced prior to examination and adoption of the Local Plan (Sections 1 and 2).
- 1.4 Following adoption of the Colchester Local Plan Section 2 in July 2022, the Affordable Housing SPD has been updated, with consideration given to previous consultation responses as well as updating the policy context. The updated Affordable Housing SPD is now being presented to the Local Plan Committee for approve public consultation.

## **2. Recommended Decision**

- 2.1 To approve publication of the Affordable Housing SPD for a six-week consultation period from 20 October to 2 December 2022.
- 2.2 For the Committee to delegate authority to the Lead Officer for Planning and Place Strategy to make minor revisions to the document prior to publication.

## **3. Reason for Recommended Decision**

- 3.1 The adoption of this guidance will help to guide the delivery of affordable housing across the Borough. The SPD will be used as a material consideration in the determination of planning applications within the Borough.

#### **4. Alternative Options**

- 4.1 The alternative would be to not progress the more detailed guidance; however, this would limit the Council's ability to secure diversity of housing within new development.

#### **5. Background Information**

- 5.1 Supplementary Planning Documents (SPDs) cannot set out new policy, but instead expand upon how Local Plan policies should be applied. In this case, the Affordable Housing SPD provides detail on Local Plan policies concerning requirements for this specific type of housing.
- 5.2 The National Planning Policy Framework (NPPF) outlines that the housing needs of different community groups 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 and people who rent their homes (paragraph 62).
- 5.3 The Council's Development Management team encourages all applicants to contact the team in the early stages of development proposals for preliminary (pre application) advice. Through this, the Council are able to outline what the likely contribution from the proposed development may be, in terms of affordable housing, and where relevant other specific types of housing. The Council's previously adopted SPD for Affordable Housing (2011), is outdated due to more recent evidence being produced. As a result, it is considered necessary for the Council to outline their updated approach to such housing provisions, and this is presented in the SPD.
- 5.4 The SPD sets out the policy background, evidence base, delivery and example Section 106 agreements. A glossary and relevant local policy extracts are included as appendices.
- 5.5 The Affordable Housing SPD provides the context of when and how these specific housing types can be delivered across the Borough. This is intended to ensure that, in line with national and local policy, these specific types of housing are secured through the planning application process in order to meet the needs of the local community.
- 5.6 The Affordable Housing SPD outlines the affordable housing requirements for above policy threshold sites, detail about rural exception sites, vacant building credit and alternatives to only be considered in exceptional circumstances including off site provision and commuted sums.
- 5.7 A Sustainability Appraisal (SA) Report was prepared for the Local Plan which appraises the policies this supplementary guidance relates to. This can be viewed [online](#).
- 5.8 An SEA Screening Opinion and Habitats Regulations Screening will be undertaken for the SPD and made available as part of the consultation. This will be published on the CBC website.
- 5.9 During the previous six week consultation in 2020 on the first draft of the revised Affordable Housing SPD, a total of 12 responses were received (see appendix 1 below). Reflection was given to the feedback and amendments have been made withing the SPD now being presented to the Local Plan Committee. Most notably the production of the SPD was postponed until the Colchester Local Plan was adopted because there was some concern about using two sets of policies. The delay has also allowed the new First Homes scheme to be addressed within the SPD.

- 5.10 There were various comments requesting that keyworker homes and Almshouses should be specifically referred to within the SPD, however these already fall within the definition of Affordable Housing so are supported and taken into account on a case by case basis, therefore it was felt no further amendment was required. Evidence of this can be seen at the site allocation in Stanway (Permission No 202829) which includes new Almshouses. Other representations questioned the percentage of affordable housing being required. The 30% requirement for affordable housing has been tested through the Local Plan Examination and is not subject to challenge through this SPD. The requirement is now within Policy DM8 of the Section 2 Local Plan.

## **6. Equality, Diversity and Human Rights implications**

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking [here](#).
- 6.2 The adoption of guidance on affordable housing will not have an adverse impact on equality, diversity and human rights.

## **7. Strategic Plan References**

- 7.1 The provision of affordable housing encompasses the Council's priority of ensuring all residents benefit from the growth of the Borough.

## **8. Consultation**

- 8.1 Draft SPDs must be consulted upon as set out in the Council's [Statement of Community Involvement](#) (SCI). This outlines that SPDs will be consulted on for a 6-week period, with consultees to include statutory consultees, general consultees on our database, and other relevant stakeholders. It is intended to consult on the SPD, for a 6-week period starting in October 2022.
- 8.2 Notifications will be sent to all relevant consultees in accordance with the SCI. The CBC website will be updated to host the consultation documents, including the SEA Screening Report. Officers will also explore an alternative method of consultation electronically, such as using the Council's Planning Consultation Portal (JDi) or the use of Microsoft Forms or other online questionnaires providers.
- 8.3 Responses will inform the final version of the SPD which will be submitted to the Local Plan Committee for approval.

## **9. Publicity Considerations**

- 9.1 The Council and its Communication team will proactively manage the SPD and consultation on it to ensure developers and the general public are aware of the benefits of developing a clear and consistent approach to securing affordable housing.

## **10. Financial implications**

- 10.1 Adoption of clear and consistent guidance to secure specific housing contributions will help the Council to fund its delivery.

## **11. Health, Wellbeing and Community Safety Implications**

- 11.1 Adoption of clear and consistent guidance to secure the provision of housing to meet the varied needs of residents across the Borough, will help to promote positive health and community safety benefits to our residents.

## **12. Health and Safety Implications**

- 12.1 None.

## **13. Risk Management Implications**

- 13.1 The Affordable Housing SPD will reduce the risk of the Council being challenged for not providing housing to meet the needs of different groups in the community as outlined in National Policy.
- 13.2 The Affordable Housing SPD will provide consistent advice to landowners, developers, officers, Councillors and members of the public.

## **14. Environmental and Carbon Implications**

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.

## **Appendices**

- 1 – Summary of Representations Received 2020 and Officer Comments  
2 - Affordable Housing SPD Consultation Draft

## **Background Papers**

None.

## Appendix 1 – Summary of Representations Received 2020 and Officer Comments

| Respondent   | Paragraph No. (from 2020 draft SPD) | Officer Summary  | Officer Response  |
|--------------|-------------------------------------|--|---|
| Mersea Homes |                                     | Premature to produce SPD prior to adoption   | Comments noted. Production of the SPD was postponed and is being updated following adoption of the Local Plan. The updated SPD expands upon how the adopted Local Plan (2017-2033) policies should be applied and provides detail on Local Plan policies concerning Affordable Housing. NPPF references have been updated in line with revised NPPF 2021. Postponing the production of this SPD has allowed the new First Homes initiative to be addressed in the SPD. Section 4 of the SPD outlines the evidence base used to inform the Local Plan and the SPD. |
|              | 3.7                                 | Reference should be made to paragraph 77 of the NPPF that discusses the development of entry-level exception sites, suitable for first time buyers.  |   |
|              | 3.16                                | Note that the AH requirement is based on the Strategic Housing Market Assessment, which is also important when considering the mix of dwellings required.  |   |
|              | 4.2                                 | Strategic Housing Market Assessments Practice Guidance explains that SHMA documents should be updated more frequently than every five years. The latest SHMA document requires updating.   |   |
|              | 4.6                                 | It is highly likely that the First Home consultation will end up dictating the tenure mix by making it a legal requirement to have a far great percentage of home ownership tenure. As stated before, we believe this SPD is premature due to the known policy changes that will soon be enforced.   |   |
|              | 4.9                                 | If this is the expectation for large sites (greater than 10 dwellings) why has it not been suggested for all major sites? Where is the consistency?  |   |
|              | 4.11                                | However, it is very clear that market need and affordable need require a very different supply. For example, 1 & 2 bed market housing is said to need 21% of the delivery whereas affordable 1 & 2 bedroom units is said to be 64% of delivery. It is therefore clear that affordable housing mix should not be proportionate to market mix. |   |

| Respondent | Paragraph No. (from 2020 draft SPD) | Officer Summary  | Officer Response |
|------------|-------------------------------------|--|------------------|
|            | 4.11                                | This is too vague and does not help developers understand what is required of them and would lead to arguments. Surely the starting point should be a pro rata proportion of the SHMA need unless both parties agree that other evidence means an alternative mix can be agreed. |                  |
|            | 5.3                                 | There should be no need to negotiate, as stated above, the SHMA mix should be the starting point.  |                  |
|            | 5.3                                 | No point, nor is always practical for the mix to be pepper potted.   |                  |
|            | 5.3                                 | Paragraph 5.3 repeats elements of Emerging Policy DM8. As this text is not set out in adopted policy, it should not form part of the SPD.  |                  |
|            | 5.4                                 | Paragraph 5.4 is seeking a mix that differs to that indicated in the Strategic Housing Market Assessment and therefore, Emerging Policy DM10.  |                  |
|            | 5.9                                 | As above the SPD cannot make policy requirements so should not make this a requirement. Secondly the Government First Home policy currently being consulted on will significantly change the situation and make the SPD out of date before it is even adopted.                   |                  |
|            | 5.9                                 | We see no clear justification as to why the Council believes that major Garden Community schemes are any different from other major schemes. There is no justification for inconsistency.  |                  |
|            | 5.13                                | This list of criteria amounts to a development management policy. It is not repeated in adopted planning policy and it is not referred to in the emerging planning policy. It should not be presented in this SPD.   |                  |
|            | 5.14                                | Change so that it is consistent with the Glossary definition   |                  |

| Respondent            | Paragraph No. (from 2020 draft SPD) | Officer Summary   | Officer Response   |
|-----------------------|-------------------------------------|---|--|
|                       | 5.15                                | This way of calculating the financial contribution is not commercial. It is an accepted fact that affordable housing delivery is far less risky than market housing and therefore commercial profit margins of affordable housing are much lower. The way this is being calculated the developer is being asked to accept all the additional risk with no financial gain. Therefore it cannot be a straight deduction as indicated here.  |  |
|                       | 5.17                                | It is not necessary to refer to further viability assessments in the SPD. Paragraph 5.17 should be deleted. Paragraph 5.18 provides sufficient text to cover this point.  |  |
|                       | 7.2                                 | This is likely to change with the First Home proposals. The Council hold back from progressing this SPD until the outcome of the Government's consultation document is clear.   |  |
| Resident              |                                     | I am pleased to read your revised proposal to raise the threshold to 30% in policy DM8 from 20% in policy H4. I trust this will be rigorously enforced. Regarding the rural exceptions policy it would be helpful to define the threshold for 'rural'.  | Noted  |
| Wivenhoe Town Council |                                     | It is not acceptable to add to this Supplementary Planning Document the condition that '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....'<br>Colchester Borough Council policy should set the bar at high and ubiquitous standard for all development. We also acknowledge that acceptable exemptions are – care homes, hostels, residential schools and colleges (where the accommodation is directly linked to | Comments noted. Production of the SPD was postponed and is being updated following adoption of the Colchester Local Plan. This includes Section 1 related to the Garden Community and further detail will be added through a DPD.<br>Student housing is meeting a different identified housing need as set out in NPPF paragraph 65. |

| Respondent | Paragraph No. (from 2020 draft SPD) | Officer Summary  | Officer Response |
|------------|-------------------------------------|--|------------------|
|            |                                     | <p>educational facilities on site) and military housing. However, we do question the current exemption for student housing (and all studio-flats or bed-sits) and ask that this is reviewed. It should be making a contribution to affordable homes too. If not on site, then elsewhere. If not a possibility then given student accommodation counts towards the total housing targets, if these sites make no contribution towards affordable housing then to achieve the overall target, the percentage would need to be marginally raised about 30% on other developments. We do strongly object to the inconsistency with regard to meeting needs only when it suits developer's viability. This policy's deviation from the 80/20 splits for the new towns (to 60/40) is clearly unacceptable and is without justification. This SPD as it stands would give a financial advantage to the new town developers as opposed to other developers as the profit margin on shared ownership is higher than for affordable housing to rent. There is no justification at this stage of the policy, or indeed any stage of a development project, to justify reducing social rented home allocations because of viability. Writing exceptions into policy opens the door to any developer taking the upper hand in future negotiations. If CBC wants to deliver against the local housing need then a change in attitude and a robust policy is essential.</p> |                  |
|            |                                     | <p>Believe future policy should give specific attention to affordable housing for rent, recognising that rent should be linked to what is reasonable; shared ownership; gifted properties/Council having invested in new build properties.</p>   | Noted            |



| Respondent | Paragraph No. (from 2020 draft SPD) | Officer Summary   | Officer Response  |
|------------|-------------------------------------|---|---|
| CPRE       | Rural Exception Sites p15-16        | Neighbourhood planning is key and must assist in delivering AH to rural areas. It is particularly important that the local planning policies relating to rural exception sites should restrict these sites to locations that are contiguous with or adjacent to the existing settlement boundary and not located in open countryside. Also supported, is the requirement for the provision of affordable housing on such sites to relate to a current Local Housing Needs Survey in which the beneficiaries must have a real and genuine affinity with the parish.  | Comments noted  |
| ESNEF      |                                     | Request that Key Worker affordable housing is specified and request that the SPD is amended to make reference to a requirement to provide a proportion of key worker housing for healthcare workers as part of affordable housing contributions within general housing developments. Taking the Council's adopted and emerging affordable housing policies into account, it is considered that an expansion to the local definitions is required to include appropriate reference to key worker accommodation. The NPPF 2019 differentiates between the varying types of affordable housing provision that can be provided to meet the needs of different groups, with particular reference given to 'essential local workers'. With the above in mind, it is requested that the draft Affordable Housing SPD is revised to include reference to the provision of key worker accommodation including for those employed in the healthcare sector in line with the national affordable housing definitions set out on page 5 of the draft document. This is considered to be necessary to enable the application of local plan | Comments noted. The definition of affordable housing is taken from the 2021 NPPF and set out in the SPD. It is a national definition and not one that can be changed locally. Postponing the production of this SPD has also allowed the new First Homes initiative to be addressed in the SPD. |

| Respondent | Paragraph No. (from 2020 draft SPD) | Officer Summary   | Officer Response  |
|------------|-------------------------------------|---|---|
|            |                                     | <p>policies to be fully applied regarding affordable housing requirements and delivery. As currently worded, it is considered that the adopted and draft affordable housing policies and supporting draft SPD document do not cover and fully embrace the full affordable housing definitions set out in Annex 2 of the NPPF.</p>   |   |
| ECC        |                                     | <p>ECC notes that the SPD may need to be reviewed to reflect any changes to national policy that may arise following the Government's current consultation on 'First Homes'. We therefore recommend that this evolving area of policy is kept under review and if necessary, changes are made to the SPD to reflect national policy requirements. In relation to the use of planning obligations, ECC encourages CBC to make use of overage clauses as part of s.106 Agreements to ensure any uplift in development viability over time is reflected in increased developer contributions. ECC therefore recommend that the SPD includes a requirement for viability monitoring on developments of strategic scale to ensure improved values resulting from residential developments are captured in the form of additional affordable housing. ECC would welcome the opportunity to work with CBC in further developing this requirement</p> | <p>Comments noted. Production of the SPD was postponed and is being updated following adoption of the Local Plan. Postponing the production of this SPD has allowed the new First Homes initiative to be addressed in the SPD. We will continue to engage with ECC during the consultation.</p> |

| Respondent                              | Paragraph No. (from 2020 draft SPD) | Officer Summary  | Officer Response   |
|---|-------------------------------------|--|--|
| Legacy East Almshouse Partnership       |                                     | <p>Almshouses should be added to affordable housing mix. I therefore believe the SPD should include something to the effect:</p> <ul style="list-style-type: none"> <li>- Developers should be strongly encouraged to gift land suitable for the building of properties to be managed as almshouses for use by local people or people having a strong connection</li> <li>- The developer should build these properties suitable for the needs of the people for which they are intended at their cost</li> <li>- The LPA and local parish council should encourage the creation of a charitable almshouse scheme and work in partnership with an organisation which can implement and manage such a scheme on with the area where the development is taking place.</li> <li>- The LPA and local parish council should determine the categories of people for whom these properties are intended.</li> </ul> | <p>Comments noted. CBC support Almshouses on a case by case basis. Currently a site is allocated in Stanway which includes Almshouses (Land North of London Road)</p>  |
| Resident                                |                                     | <p>30% affordable should not include any variations of low cost homes to buy; low cost rent; self build starter homes. These should all come under the percentage of homes to be marketed. Clauses diluting percentage of affordable housing should be completely removed.</p>   | <p>Comment noted</p>   |
|   |                                     | <p>Consultation is premature - should be after adoption and first homes outcome. Concerns that the policy set out will not deliver the affordable rent and social rent, one-to-two bedroom properties the borough is short of. Endorse comments around the need for policy to support almshouses in the borough.</p>   | <p>Production of the SPD was postponed and is being updated following adoption of the Local Plan. Postponing the production of this SPD has allowed the new First Homes initiative to be addressed in the SPD.</p> |
| Sigma Planning on behalf of Rydon Homes |                                     | <p>Mix needs to be flexible to address current conditions but guidance needs to be clear on how this will happen. Suggests the required Mix to be published annually in the AMR. Not feasible for developers to do it for each application</p>   | <p>Comments noted</p>  |

| Respondent       | Paragraph No. (from 2020 draft SPD) | Officer Summary   | Officer Response   |
|------------------|-------------------------------------|---|--|
| Wivenhoe Society |                                     | <p>Paragraph 4.2 states that the SHMA is the main evidence base. The chart is reproduced from table 7.3 in the SHMA report. However the SHMA report does not appear to be internally consistent. Paragraph 5.7 sets out the emerging policy requirement for 30% affordable housing provision for developments of more than 10 dwellings. Paragraph 5.9 states "Other than the circumstances set out at 4.9 above, 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 64 of the NPPF and the Colchester affordable housing need." In the paragraph 4.9 referred to in this quote, for the garden communities it appears that 60:40 split is proposed rather than an 80:20. This policy would give a financial advantage to the Garden Community developers as opposed to other developers as the profit margin on shared ownership and on discounted housing for sale is higher than for affordable housing to rent. The playing field should be level for all developers. It should be pointed out that, with 30% affordable housing, the 80:20 split would result in 6% of new housing being for discounted sales of one sort or another and the 60:40 would give 12% of new housing for discounted sales, one figure being below the 10% suggested in the NPPF and one figure being above.</p> | <p>Comments noted. The SPD outlines the latest evidence base used to inform the Local Plan and the SPD. Production of the SPD was postponed and will be updated following adoption of the Colchester Local Plan. This includes Section 1 related to the Garden Community and further detail will be added through a DPD.</p> |