APPENDIX 2

Document Control Sheet

Document title	Maldon District Affordable Housing and Viability Supplementary Planning Document
Summary of purpose	Provides additional detailed guidance to developers, Registered Providers and the community on the Council's approach to affordable housing provision, ensuring that approve Local Development Plan Policies H1, H2 and H5[1] are as effective as possible in delivering affordable housing
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This document is due for review by the date shown above, after which it may become invalid. Users of the strategy or policy should ensure that they are consulting the currently valid version of the document.

MALDON DISTRICT COUNCIL

Maldon District
Affordable Housing and Viability Supplementary Planning Document (SPD)

Amended December 2019

MALDON DISTRICT
COUNCIL

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NOTE:
Figure 2: Viability Assessment Process (page 38) was amended in December 2019, no other changes were made to the SPD

1. INTRODUCTION

Why is this document important?

1.1 The Maldon District Local Development Plan (LDP) (2017)[1] seeks to deliver sustainable, quality affordable housing over the plan period (2014-2029). Specifically, this SPD is guided by the policy framework of key LDP Policy H1: Affordable Housing, as well as Policy H2: Housing Mix and Policy H5: Rural Exception Sites.

1.2 There is a significant need in the District for affordable housing: average incomes have fallen below the levels needed to access the owner-occupation market; many current and newly forming households struggle to afford to rent in the private rented sector; Right to Buy impacts on the number of properties available; and, there remains the risk of homelessness when private sector tenancies end.

1.3 The District has one of the largest gaps between local incomes and local wages in Essex. This means that it is more likely that homes on the open market will be affordable to those who work outside the District, than to those who live and work in the District. Demand for affordable housing in the District therefore outstrips existing and planned supply, particularly for local people who live and work in the area.

1.4 There is an identified need for 130 affordable units each year, for the next 15 years[2]. Since 2014, only 71 affordable units have been developed, significantly less than the 390 units required (for the first three years of the plan period). This demonstrates an acute need for affordable housing in the District and an urgent need for this SPD to be adopted to enable delivery through new development.

1.5 This SPD provides additional detailed guidance to developers, Registered Providers and the community on the Council's approach to affordable housing provision, ensuring that approved LDP policies H1, H2 and H5[1] are as effective as possible in delivering affordable housing. This includes:

- Providing greater clarity about what affordable housing mix and tenure the Council seeks as part of residential development;
- Providing more guidance about financial contributions;
- Explaining the approach to be taken to Exception Site applications;
- Providing more guidance about the supporting information that is likely to be sought for different affordable housing proposals.

1.6 This SPD is set within the context of national policy including the revised National Planning Policy Framework[3], local housing needs and the Council's strategic housing objectives. This SPD does not and cannot introduce new planning policy. Once adopted, this SPD will be a material consideration in determining planning applications. The SPD will then replace the Council's Affordable Housing Guide[4].

Viability and Affordable Housing

1.7 The expectation is that all new housing development should comply with the level of affordable housing set out in LDP Policy H1[1]. This is not always the case – negotiations to reduce affordable housing requirements and other obligations based on site-specific viability assessments should only be necessary where the site circumstances indicate that exceptional costs that will make policy compliance unviable. This SPD provides further guidance on when a viability assessment may be required, how the Council will take viability into account when considering planning applications and what supporting information will be required. This will embed the requirement for affordable housing into land values, making the viability process consistent and transparent.

1.8 In those cases where the Council acknowledges that an application is unable to be LDP policy compliant, more should be done to increase the affordable housing contributions during the implementation of the scheme should viability improve. This is an increasingly important part of the development management process. Detailed guidance in this SPD will explain the Council's approach to assessing financial viability through review mechanisms, if considered necessary by the Council and the applicant.

What is affordable housing?

1.9 The Government[3] defines affordable housing as:

'Affordable housing is 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 complies with one or more of the following definitions:

- ***Affordable housing for rent:*** *meets all of the following conditions: a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); b) the landlord is a Registered Provider, except where part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and in this context is known as Affordable Private Rent).*
- ***Starter homes:*** *is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan preparation or decision making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*
- ***Discounted market sales housing:*** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local*

house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

- ***Other affordable routes to home ownership:*** *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.'*[3]

1.10 Homes that do not meet the above definition of affordable housing, such as 'low cost market' housing will not be considered as affordable housing in the District.

1.11 But the housing market is evolving: as new products become available the Council may consider other forms of housing as affordable provided that they meet local needs for those who live and work in the District.

1.12 LDP policy H1 is silent on the inclusion of starter homes, discount market housing and several of the other routes to affordable homes 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, as an affordable housing product. The Council will have regard to the NPPF[3] and the consideration of these products in new applications where it can be demonstrated that it addresses an affordable housing need in the District. This SPD cannot change approved Policy H1, but it can highlight how these products will be considered.

Strategic Environmental Assessment and Equalities Impact Assessment

1.13 A Strategic Environmental Assessment (SEA) Screening Report[5] has been carried out (see www.maldon.gov.uk/spd) for the SPD. The Council carried out an extensive Sustainability Appraisal for the LDP and this SPD only provides detailed guidance to support the delivery of the LDP, and does not set new policy. Therefore it has been concluded that SEA of the SPD is not required.

1.14 An Equalities Impact Assessment[6] is available at www.maldon.gov.uk/spd

2. POLICY CONTEXT

National policy context

National Planning Policy Framework (NPPF)[3]

2.1 The National Planning Policy Framework 2018 sets out the Government's planning policies for England and how these are expected to be applied. Paragraph 61 of the NPPF aims to promote the delivery of a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities by: '*Ensuring the size, type and tenure of housing needed for different groups in the community should be assessed 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).'*

2.2 Specifically for affordable housing, the NPPF[3] expects '*affordable housing to be provided on site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified; and that the agreed approach contributes to the objective of creating mixed and balanced communities.'*

2.3 The NPPF[3] introduces a new policy requirement:

'Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership [as part of the overall affordable housing contribution from the site], unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:

a) provides solely for Build to Rent homes;
b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
c) is proposed to be developed by people who wish to build or commission their own homes; or
d) is exclusively for affordable housing, an entry level exception site or a rural exception site.'

2.4 Paragraph 77 adds that in rural areas, housing should respond to local needs particularly for affordable housing, including through rural exception sites, where appropriate. Consideration should be given to allowing some market housing where it would facilitate the provision of significant additional affordable housing to meet local needs.

2.5 The NPPF[3] introduces entry level exception sites which are: '*suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should:*

a) Comprise of entry level homes that offer one or more types of affordable housing as defined by the NPPF; and

b) be adjacent to existing settlements, proportionate in size to them [not be larger than one hectare or exceed 5% of the size of the existing settlement], not compromise the protection given to areas or assets of particular importance in the NPPF and comply with design policies and standards.'

2.6 LDP policy H1 is silent on the inclusion of 10% of affordable homes on site being for ownership and also entry level exception sites. The Council will have regard to the NPPF and the consideration of these products in new applications. This SPD cannot change approved Policy H1, but it can highlight how these products will be considered.

Planning Practice Guidance (PPG)[7]

2.7 The Government's Planning Practice Guidance provides more detail on a range of planning matters identified by the NPPF[3]. First published in 2014, this web-based resource is regularly updated to reflect the current policy position.

2.8 As part of the NPPF[3] review, the Government has also revised parts of the Planning Practice Guidance. Regard has been had to these changes in the production of this SPD.

2.9 Paragraphs 011-018 (Viability PPG, 2018) set out the key factors to be taken into account when undertaking a viability assessment. These include gross development value, current costs, land value, abnormal costs, site specific infrastructure costs and professional site fees and recent market evidence.

2.10 The Viability PPG (013) recognises that an allowance should be made for a landowner premium. A viable and deliverable development should *'provide a reasonable incentive for a landowner to bring forward land for development while allowing a sufficient contribution to comply with policy requirements'*. As such, the Viability PPG considers contributions for affordable housing should not impede the viability and delivery of development. The Council acknowledges that a premium will vary between projects but considers that the profit margin should be commensurate with the level of risk for each scheme. This SPD provides the basis for discussions with the Council. However, developers are expected to use the assumptions identified in Section 8.0 to inform the value of land.

2.11 The Viability PPG (018) also provides guidance on the level of developer return. It is clear that *'it is the role of developers, not plan makers or decision makers, to mitigate [any] risk. The cost of complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan.'* On this basis the Council considers that affordable housing and other policy requirements should be taken into account when land is purchased or an option is agreed.

2.12 For schemes requiring phasing over the medium and longer term, changes in the value of development and costs may be considered: these forecasts should be based on relevant market data and agreed with the Council as early as possible in the application process.

Local Planning Policy

Maldon District Local Development Plan (LDP)[1]

2.13 The LDP was approved by the Secretary of State in July 2017. This is part of the development plan for the District, covering the period 2014-2029. Policy H1 sets out the overarching framework for enabling affordable housing. Other policies in the LDP set out more specific requirements on matters such as Housing Mix (Policy H2) and Rural Exceptions Schemes (Policy H5). **These key policies are re-produced in Appendix 2**. See www.maldon.gov.uk/LDP for further information.

Neighbourhood plans

2.14 Neighbourhood plans that are 'made' are part of the development plan for the District. All planning applications should be in accordance with the development plan, unless material considerations indicate otherwise. Neighbourhood plans may contain policies relating to affordable housing and/or housing needs in a particular area. Further information on the status and content of neighbourhood plans is available at www.maldon.gov.uk.

Maldon District Design Guide SPD[8]

2.15 The SPD (2017) provides further details on LDP Policy D1, identifying the principles that should be followed to deliver good quality design of new development in the District. These principles apply equally to affordable housing and market housing.

2.16 Where sites or areas are subject to other guidance prepared by the Council e.g. a master plan or strategic design codes, developers must consider affordable housing requirements carefully to reflect all appropriate guidance. Further information is available at www.maldon.gov.uk/mddg

Maldon District Specialist Needs Housing SPD[9]

2.17 The SPD is expected to be adopted in September 2018. This covers all matters relating to specialist needs housing for older people and those with other specialist housing needs. See www.maldon.gov.uk/spd

Maldon Strategic Housing Market Assessment (SHMA)[2]

2.18 LDP Policy S2 identifies a need for a minimum of 4,650 dwellings from 2014-2029 (310 dwellings per annum). However, the LDP plans for a higher target of 5,108 dwellings to provide for a better mix and choice and to enable the delivery of affordable housing, housing for older people and housing for other specialist needs.

2.19 The SHMA (2014) indicates that the annual level of net new affordable housing is 130 units over 15 years, 44% of the potential annual housing delivery figure, close to the LDP affordable target level of 40%. The expectation is that the majority of the affordable

housing will be delivered through the Garden Suburbs and Strategic Sites (in Policy S2) and through qualifying housing sites in LDP Policy H1.

2.20 Other key SHMA findings are:

- The existing supply of affordable housing in the District is significantly below national and regional averages;
- Owner occupation is beyond the reach of the majority of households who do not already own their own home; a range of housing products should be considered to meet needs;
- There is a shortfall of all sizes of affordable accommodation, with the largest shortfall being for one and two-bedroom homes;
- There is an oversupply of larger, market homes compared to local need;
- In terms of tenure the greatest need is for affordable rented properties, although demand exists for intermediate housing particularly for family-sized properties;
- A significant increase in the number of older people is expected, there is a need for Extra Care/Independent Living and sheltered accommodation;
- Providing a better supply of affordable homes for older people could improve the availability of existing general needs, affordable homes.

2.21 The SHMA[2] suggests an affordable housing tenure mix of 80% Affordable Rent: 20% Intermediate Housing. However, to effectively balance the housing market over the plan period and over the housing market area, to improve viability and allow for the development of social rented homes by those Registered Providers who are unable to develop Affordable Rented Homes as part of the Homes England development programme the Council prefers to secure a mix of 70% affordable rent: 30% intermediate housing. This mix has been successfully secured in Section 106 agreements so will continue to be the Council's preferred approach.

2.22 The SHMA[2] is silent on the new affordable housing products introduced by the NPPF[3]. However, the Council considers that discounted market sales housing and starter homes are a type of intermediate housing, and affordable build to rent is a type of affordable rented housing. The Council will have regard to these new products when considering the tenure mix of new development.

2.23 The SHMA[2] suggests a housing mix, but to achieve maximum viability and delivery of affordable units, and meet as far as possible need, a different mix has been used for recent Section 106 agreements (see paragraph 4.20 for more information).

Local Housing Policy

2.24 Affordable housing has a significant role to play in meeting the Council's corporate goal of 'meeting housing needs' and preventing and relieving homelessness – co-ordinating work with Registered Providers and developers to provide affordable housing in the District continues to be a priority. Increasing the range of housing products available to people in housing need and providing quality alternatives to homelessness will help to deliver this goal.

Maldon District Draft Housing Strategy[10]

2.25 Maldon's draft Housing Strategy (2018-23) enables a step-change in the provision of affordable housing by setting out plans to manage growth and meet the changing needs and aspirations of local residents over their lifetime. This will be achieved by facilitating choice and providing ways of helping residents move through different types of tenure as their circumstances change. The Strategy also seeks to secure viable affordable housing to meet identified local needs to help achieve a more balanced, sustainable housing market and make best use of the existing housing stock.

Maldon District Tenancy Strategy[11]

2.26 The Maldon Tenancy Strategy (2017) sets out how the Council expects Registered Providers and other approved providers should operate affordable housing tenancies, and how affordable homes should be managed in future. All new affordable homes must be delivered in accordance with this guidance.

3. MALDON'S AFFORDABLE HOUSING NEEDS AND PRIORITIES

3.1 The LDP[1] plans for a target of 5,108 dwellings from 2014 to 2029. Informed by need and demand, the SHMA[2] indicates that 130 affordable units are required each year over the same period, 44% of the potential annual housing delivery figure, close to the LDP affordable target level of 40%. Since 2014, only 71 affordable units have been developed, significantly less than the 390 units required by the SHMA[2] for the first three years of the plan period, with only 21 being delivered in 2016/17. The expectation is that the majority of the significant affordable housing shortfall will be delivered through the Garden Suburbs and Strategic Sites identified by LDP Policy S2 and through those market housing sites where LDP Policy H1 applies.

3.2 Securing the level of affordable housing identified by the LDP is essential to ensure that local people are able to afford to live in the District. The average income of those who live and work in the District is £511.30 (£26,572), lower than the regional level and that of other neighbouring authorities. The average price of a small flat/maisonette in Maldon is £190,000, assuming a mortgage of 3.5 times the annual income, properties are out of reach of most residents who live and work in the District. There are however, many residents who live in Maldon but work elsewhere, their income is noticeably different and are unlikely to be in need of affordable housing to the same extent.

3.3 This significant affordable housing shortage has increased the demand for temporary accommodation, and seen a rise in overcrowded conditions and people living in unsuitable properties. Those considered to be homeless has also increased in recent years (and is expected to rise further) partly due to an increase in the cost of private rented accommodation and home ownership, and because of the anticipated consequences of the Homelessness Reduction Act 2018. Providing the right number and type of affordable housing should help minimise homelessness and the impact that this has on public services and the local community.

3.4 The District has a rising ageing population, providing the right type of housing is important to meet the changing needs of older people over time: the SHMA[2] identifies that providing smaller affordable homes that meet their needs and aspirations, such as 1 and 2 bed bungalows and supported housing, will widen housing choice, and help people move and downsize to homes that are more appropriate to their needs. This helps improve the overall supply of affordable housing in the District in the short and long term by 'freeing up' larger, general affordable homes for families.

3.5 Adapting homes to meet the needs of those who are elderly or disabled can help people retain their independence in their own homes, but there will still be occasions where affordable homes designed to a specific standard are required to meet identified needs.

3.6 Starter Homes are identified by national policy[3] as a type of affordable housing, but in the District even with a 20% discount applied through the Starter Homes initiative, properties would only be affordable for a very small number of those identified as being in need of affordable homes who live in the District. Securing affordable housing that meets the needs of the majority living and working in the District is a priority.

3.7 To address current housing stock imbalances and to plan for long term population and household formation changes, and reduce the amount and risk of homelessness in the District, the priority is to secure the right amount and type of affordable housing to meet local housing needs. With funding for affordable housing through Government grants reducing, the introduction of the Local Housing Allowance cap, and Registered Providers losing revenue through the imposition of rent reductions and other welfare reforms, delivery of affordable housing as part of market housing schemes is essential to sustaining output and meeting identified needs.

3.8 A range of housing products are available but not all will suit the District's specific housing needs: looking at local household incomes, the most appropriate type of tenure is affordable rent. These benefit local residents because rents do not exceed Local Housing Allowance levels, although even with rent restrictions larger homes at affordable rent levels may not be affordable to some families on welfare benefit. To help redress this, some homes may be required for social rent. Although a range of properties are required over the LDP plan period, the immediate priority is to secure affordable rented one and two bed units to meet identified needs[2]. There is also a small need for three/four bed units to help address the scale of need for family units and reduce the number of overcrowded properties[2].

3.9 To help improve viability and to promote a better mix of housing products, intermediate housing is also supported e.g. shared ownership or affordable rent to buy, as long as they would be affordable to someone earning the average local wage.

3.10 The affordable housing market is evolving: Other new and/or innovative options such as rent-to-buy may be considered if they provide an affordable route to home-ownership, with the security of renting in the medium to long term. Community-led affordable housing schemes can also help address specific locality needs or the needs of specific groups. National policy[3] has introduced discounted market housing and affordable private rent products within Build to Rent schemes. These are relatively new products but may be appropriate for the District - the Council will have regard to them in new developments where they can meet local needs.

3.11 It is important that affordable homes are made available to local people in need. Securing nomination rights is important for the Council when first built and then when re-letting in the future.

4. WHEN WILL AFFORDABLE HOUSING BE SOUGHT?

Which developments may require affordable housing?

4.1 LDP Policy H1 states that affordable housing will be sought from residential developments of more than 10 units or which have a combined gross floorspace of more than 1,000 sqm[1].

4.2 To ensure consistency with the Community Infrastructure Levy, the gross internal area (GIA) will be assessed using the RICS Property Measurement[12]. Gross Internal Area of a building measures the internal face of the perimeter walls at each floor level, including all rooms, circulation and service space, including lifts, corridors, toilets and ancillary floorspace (e.g. underground parking), as well as conversions, garages and any other buildings ancillary to residential use. In flatted developments, it should include communal entrances, landings etc, and any related internal parking.

4.3 For schemes that involve demolition, the floorspace that is to be demolished will be deducted from the total provided by the new development. If a development has been demolished in the last three years, the figures from the previous development will be used.

Exemptions

4.4 The Planning Obligations PPG (2016, para 031)[7] identify the circumstances where affordable housing will not normally be sought:

- householder applications (e.g. house extension or a garage) and self-build development as defined by the CIL Regulations 2014;
- exclusively affordable housing and starter homes schemes, or the affordable housing element of a market housing scheme (other than the provision of the affordable homes themselves);
- residential annex, staff accommodation or extension to an existing home which is incidental to the main dwelling;

In addition in the District the following other types of proposals will not usually require affordable housing:

- listed building, conservation area, advertising or tree preservation order applications (although contributions may be sought from the overarching scheme);
- replacement dwellings;
- residential institutions providing specialist housing for the elderly in Use Class C2 (excluding self-contained units – like Sheltered of Extra Care schemes). For more information see paragraphs 4.25-4.27 and the Specialist Needs Housing SPD[9];
- purpose built hostel or holiday accommodation which are incapable of occupation for general residential purposes because of their layout, ownership, management or occupancy restrictions;

- Gypsy and Traveller accommodation.

Artificial sub-division of sites

4.5 LDP Policy H1[1] seeks to maximise the amount of affordable housing delivered in the District, and Policy H4: Effective Use of Land requires proposals to use developable land efficiently. As such, proposals which seek to circumvent the Policy H1 affordable housing requirement by developing at a low density, through a phased or piecemeal development, by re-drawing the boundary of a larger site or by sub-dividing land will not be acceptable.

4.6 The Council will base the affordable housing requirement on the gross number of dwellings that can be accommodated on a site. In reaching a view on this, the Council will take into account such issues as land ownership, planning history, topography, site constraints and the natural boundaries of the site.

Vacant Building Credit

4.7 The Planning Obligations PPG (2016, paras 021-023)[7] state that a vacant building credit (VBC) can apply to sites where a vacant building is brought back into lawful use, or is demolished to be replaced by a new building. VBC would then reduce the requirement for affordable housing based on the amount of vacant floor space being brought back into use or being redeveloped.

4.8 VBC will not be automatically applied: the intention of VBC is to *'incentivise brownfield development'*[7] and the re-use of vacant buildings so only relevant buildings will be considered as being able to generate VBC. For example, a brownfield site containing a scrap yard with few buildings would not be relevant because the amount of credit that could be applied would be limited and would do little to incentivise development.

4.9 Where a proposal provides a reasonable return to the landowner, a competitive profit to a developer and is policy compliant, VBC should not be applied as the development would be sufficiently incentivised and viable. Applying VBC at the outset would reduce the affordable housing contributions and potentially increase the financial returns to both landowner and developer. If a developer considers VBC should be applied, sufficient evidence will be required to ensure that an application can be considered appropriately. This may include a viability assessment (see Section 8.0). The VBC will be taken from the residual land value.

4.10 The Council is expecting to implement the Community Infrastructure Levy (CIL) in 2019. To enable the Council to assess VBC and CIL claims consistently, and to ensure that an applicant cannot claim that a scheme qualifies for VBC and CIL relief, a building will be considered vacant if it has been in lawful use for a continuous period of fewer than six months, within the past three years ending on the day planning permission first permits the chargeable development (to be eligible for CIL relief a building must *'be in lawful use for a continuous period of at least six months within the past three years ending on the day planning permission first permits the chargeable development'* CIL (Amendment) Regulations 2014). Until CIL is adopted the three year period will end on the day the

planning application is registered. If CIL is delayed this is consistent with national legislation so is considered appropriate.

4.11 It is important that VBC is used appropriately, is applied to genuinely vacant buildings, so should not be covered by an extant or recently expired planning permission and should not be protected for an alternative land use in the LDP[1] or in another planning policy document.

4.12 National policy[7] states that VBC should not apply to every vacant building, therefore the Council will be mindful to a building being made vacant for the sole purposes of re-development and/or the wilful neglect of properties with the intention of securing redevelopment. Therefore, applicants must demonstrate that the relevant vacant buildings have been actively marketed on realistic terms based on the current or any permitted use for at least 12 months continuously in the previous two years. The Council may also use Council Tax, Business Rates or Electoral Register records in their VBC assessment.

4.13 VBC does not apply to abandoned buildings[7]. A building will be treated as 'abandoned' rather than 'vacant' where the lawful planning use of the building has been abandoned for a period of five years. Cessation of a use does not necessarily mean abandonment.

4.14 Where the Council considers VBC applies the developer will be offered a financial credit equivalent to the existing GIA of the vacant buildings (see paragraph 4.2). This will be deducted from the overall affordable housing contribution, either the number of affordable units sought or the financial contribution required. A worked example is set out below.

Elements of the scheme (GIA)	**Floorspace (sqm)**
Existing	**500**
Existing floorspace to be retained	250
Existing floorspace to be demolished	250
Proposed	**2390**
Increase in floorspace	**1890**

VBC Calculation
40%* of 30 units = 12 units
1890sqm as percentage of the overall development of 2390 = 79.07%
12 units x 79.07% = 9.48 units
*Policy H1 sub-area affordable housing requirement

In this case the Council will require 9 units on site and the 0.48 as a financial contribution.

4.15 For outline planning applications it may not be clear how many dwellings are proposed or the size of those dwellings. In these cases, it will be difficult to identify the VBC. A S106 agreement will ensure that the issue can be dealt with at Reserved Matters stage. All requests for VBC will be included in the Planning Committee report.

Affordable Housing Requirement

4.16 The affordable housing requirement will vary to reflect a site's location in the District and local need. LDP Policy H1[1] divides the District into the following sub-areas (see Figure 1 on page 17):

Sub-area	Requirement
North Heybridge Garden Suburb:	
S2 (d): North of Heybridge	30%
S2 (e): North of Holloway Road	40%
S2 (f): West of Broad Street Green Road	40%
South Maldon Garden Suburb	30%
Strategic allocations at Maldon, Heybridge and Burnham-on-Crouch	40%
All other developments:	
Northern Rural, Maldon Central and South and Rural South*	40%
Maldon North and Rural South East Higher*	30%
Rural South East Lower*	25%

Table 1: Affordable Housing Sub-Area Requirements
*as shown in Figure 1

4.17 In those cases where the requirement does not generate a whole number, a financial contribution will be sought equal to the value of the partial unit (see paragraph 5.24).

Affordable Housing Tenure

4.18 The SHMA[2] suggests an affordable housing tenure mix of 80% Affordable Rent: 20% Intermediate Housing. However, to effectively balance the housing market over the plan period and over the housing market area, to improve viability and allow for the development of social rented homes by those Registered Providers who are unable to develop Affordable Rented Homes as part of the Homes England development programme, the Council prefers to secure a mix of 70% affordable rent: 30% intermediate housing. This mix has been successfully secured in Section 106 agreements so will continue to be the Council's preferred approach.

4.19 The SHMA[2] is silent on the new affordable housing products introduced by the NPPF[3]. However, the Council considers that discounted market sales housing and starter homes are a type of intermediate housing, and affordable build to rent is a type of affordable rented housing. The Council will have regard to these new products when considering the tenure mix of new development.

4.20 When assessing the viability of a development, the total number of affordable units provided by each scheme should be policy compliant for the location and, unless otherwise agreed with the Council, should have a preferred tenure split of:

- No lower than 70% social rented/affordable rented: Generally in the District, affordable rented housing is acceptable as the preferred option; and

- No higher than 30% intermediate housing (as defined in paragraph 1.9). Generally in the District shared ownership (Homebuy) is considered the preferred option. Rent to buy and fixed equity, and other intermediate products may be appropriate if agreed with the Council's Housing Services.

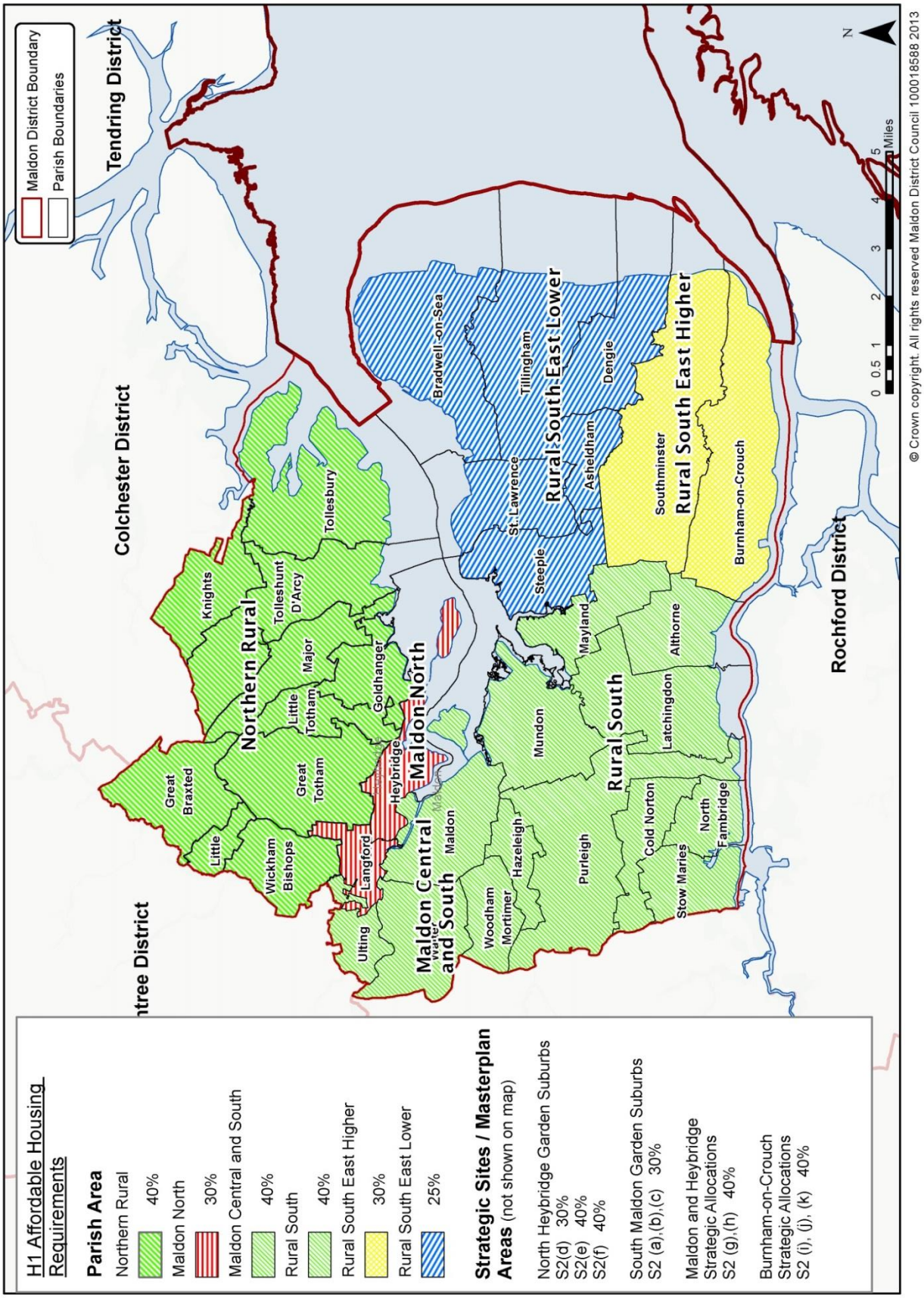


Figure 1: Local Development Plan policy H1 Affordable Housing Requirements

Affordable Housing Mix

4.21 There is a demand for a wide range of property sizes in the District. LDP Policy H2[1] expects a suitable mix of housing in both the market and affordable sectors to enable a better flow of existing housing stock and to meet the identified housing needs for different demographic groups in the District.

4.22 The SHMA[2] suggests a mix, but to achieve maximum benefits: to better meet unmet need and to achieve other SHMA recommendations, such as, to achieve a balance of homes that would stimulate additional supply from existing stock, maximise viability (by providing slightly more low cost home ownership), the Council considers the example mixes in Appendix 3 are more appropriate - these have been successfully secured in Section 106 agreements - and will be the starting point for discussion.

4.23 However, the Council may consider a different mix, for example, if local housing needs would benefit from an alternative, the location does not support the delivery of a particular size or type of homes or a revised mix would help to redress the balance of existing affordable homes in an area. This should be discussed with the Council's Housing Services at pre-application stage.

4.24 Schemes providing for only one age group, for example, for older people will only be expected to provide affordable housing for that age group.

Specialist Accommodation

4.25 Policy H3[1] supports specialist or supported accommodation where there is an identified need in the District, such as for older people and people with disabilities. This may be provided as solely affordable housing or sought as part of a market housing scheme in line with Policy H1.

4.26 All applications for specialist and/or supported housing should be consistent with Policy H3, and be accompanied by a business case demonstrating the financial feasibility of providing housing-related support for the relevant client group (to fulfil Policy H3 (7)). The Council will consult other relevant agencies to ensure that the provision does not place any unnecessary burdens upon the District's infrastructure, such as health and social care.

4.27 Over time, specialist affordable housing may no longer be viable, for example due to a lack of revenue funding or lack of demand. To ensure the District does not lose affordable housing, sufficient evidence will be required as part of the planning application (which may include a viability assessment) to demonstrate that the specialist use is no longer viable. If this is the case then a variation to the S106 agreement for the scheme will be required so that the properties can be converted to general needs affordable housing. Further details are provided in the Council's Specialist Needs Housing SPD[9] at www.maldon.gov.uk/spd.

4.28 Provision of specialist accommodation should not exclude provision of affordable housing. Some proposals may include a mix of Class C2 and Class C3 housing. Provision of affordable housing will only be sought from Class C3 housing: such as Sheltered and Extra-Care schemes, and individual, self-contained C3 units, even where the occupants

receive care and/or are restricted to occupancy over a particular age and/or are located within a complex which includes some C2 (nursing home) rooms.

4.29 It is not always appropriate for design or financial viability reasons for affordable units within a specialist housing scheme to be located on site. In these cases a financial contribution may be acceptable. This should be agreed with the Council at pre-application stage.

Community-led affordable housing

4.30 Community-led housing is a way for local community groups to deliver good quality homes and/or specialist homes, in settlements or as exception sites in the rural area (see Section 6.0 for details) to meet local needs in perpetuity. These homes must be affordable. Community-led housing can be developed and/or managed by local people or residents, by not for profit organisations, such as locally based charities or almshouse providers. It can also be provided by Registered Providers and owned and managed by them on behalf of a community group.

4.31 This type of housing can take a variety of forms: current models include self-help housing, co-housing, co-operatives, community land trusts and community self-build. It can also include the re-use of existing buildings. Community-led housing can also be delivered through Community Right to Bid or the Community Right to Build processes.

4.32 Promoters should contact the Council at an early stage if community-led housing is being proposed. Evidence of the need for affordable housing in that community will be required including that affordable housing is unlikely to be accommodated through planned development in the locality. The Neighbourhood Plan process provides an opportunity to identify appropriate sites and get community buy-in early for community-led housing. Promoters must agree their nominations policy and future management approach with the Council. This will be set out in a S106 agreement (see paragraphs 5.14-5.22).

Mixed-use schemes

4.33 Where a scheme proposes non-residential development alongside an element of housing, affordable housing will be required for all qualifying residential development. Mixed-use schemes that are not policy compliant will need to be justified by appropriate evidence, which may include a viability assessment.

4.34 Where planning permission is granted for a mixed-use scheme and there is a proposal to change the use of the non-residential element to residential, a full re-assessment of the affordable housing provision will be required (see Section 8.0).

Loss of affordable housing

4.35 Given the acute demand for affordable housing in the District, the loss of affordable housing will not normally be acceptable unless this is to enable the provision of an equivalent or greater number of replacement affordable homes. The only exceptions would be where wider housing benefits would outweigh the loss of units in that location by providing the type of affordable housing that cannot be provided elsewhere, the

condition of stock is so poor that it is not viable to refurbish and it is not feasible to develop the same amount, for example, for design reasons. In these cases, to compensate for any loss, it is expected that the Council would require the on site affordable housing tenure and mix to meet identified local needs. The approach should be agreed at pre-application stage.

Amendments to planning permission

4.36 When affordable housing is being provided and amendments to a planning permission increase the number of market houses/floorspace, the affordable housing requirement sought will be a percentage of the revised total number of homes across the application site. This includes those applications where amendments increase the number of market housing/floorspace so that the threshold identified by Policy H1[1] is exceeded.

4.37 Where amendments are sought to a planning permission that is being delivered in phases, the affordable housing requirement will be re-assessed and applied to the total number of units proposed in the remaining phases. If the number of dwellings is increased the Council will expect an increase in affordable housing in accordance with the requirements set out in LDP Policy H1[1].

5. PROVIDING AFFORDABLE HOUSING

On Site Provision

5.1 Consistent with national policy, the preferred approach in the District identified by Policy H1[1] is for the on-site provision of good quality affordable housing. Where it can be demonstrated that the requirement and/or tenure mix is not viable on site, the starting point for negotiation will be the content of 4.16-4.24 above. The requirement and/or tenure mix may be re-considered to improve viability along with the possibility of providing grant or other forms of public subsidy. Only in exceptional circumstances where, a viability assessment shows that it is not feasible to deliver all, or part of the provision on-site and no grant subsidy is likely, will consideration be given to an equivalent financial contribution or the provision of free-serviced land transferred to a Registered Provider. Policy H1 does not promote the provision of developer owned land, off site in lieu of affordable housing.

5.2 Where some, but not all the affordable housing requirement is provided on site, an equivalent financial contribution will be sought (see paragraph 5.24).

Public Subsidy

5.3 So that high quality, affordable homes can be delivered that meet identified needs, the Council expects developers to cover the cost of the affordable homes so that there is no need for public subsidy (including grants, public loans and public land). The expectation is that policy compliant schemes will be viable without the need for grant or other forms of subsidy.

5.4 Where only a proportion of the required number of affordable homes can be secured as part of a viable scheme, a review mechanism will be incorporated in the S106 agreement to ensure that if grant, subsidy or other investment become available at a later date a review of the affordable housing provision can be secured (see Section 8.0) in accordance with a policy compliant scheme.

Design of Affordable Housing

5.5 To promote integrated communities, affordable housing should be designed to meet the requirements set out in the Maldon District Design Guide SPD[8] and be indistinguishable from market housing, in terms of quality of the homes provided, the adequacy of internal living and the location and quality of outdoor amenity space and parking provision.

5.6 It is important that all dwellings have adequate living space to ensure that the changing needs of a household can be addressed. Good size properties also mean that the Council and Registered Providers are able to manage their stock easily as they can be allocated to a wider range of households. The size of bedrooms is important, particularly as same sex siblings may be required to share a bedroom until 16 under the new housing welfare reforms.

5.7 As a guide, all 2 bed properties should be designed for 4 people. This ensures that 2 bed properties can be let to 2, 3 or 4 person households. All properties with 3 or more bedrooms should include one double and one twin room to maximise the property's

potential use. All one bed properties must be designed for 2 people (i.e. have a double room). Therefore the upper limits of the Nationally Described Space Standard[13] will be the starting point for discussion. Further guidance is set out in the Council's Housing Strategy[10].

5.8 The District has an identified need for older persons housing. In these cases, additional space may be required to accommodate people down-sizing from larger homes and who in future may need space for aids and adaptations. The Maldon Design Guide Appendix A: Older Persons Housing[8] and the Specialist Needs Housing SPD[9] expects these proposals to be compliant with Building Regulations and any relevant guidance by Housing our Ageing Population: Panel for Innovation (HAPPI).

5.9 All new residential units will be expected to have direct access to an area of private amenity space. The form of amenity space will be dependent on the form of housing and could include a private garden, balcony or ground-level patio with defensible space from any shared amenity areas.

5.10 The design and layout of affordable housing will largely be addressed through the Maldon District Design Guide SPD (at www.maldon.gov.uk/mddg)[8]. The location of affordable plots should be clearly identified on submitted plans: Homes should be spread across the site in small groups of no more than 15 to 20 homes to achieve an appropriate mix with market homes, or in self-contained flatted blocks for ease of management. Clustering of affordable homes in this way avoids large concentrations of single tenure dwellings and achieves mixed and sustainable communities.

5.11 Dwellings designed to achieve high standards of energy efficiency will be supported. Reference should be made to the Council's Renewable Energy and Low Carbon Technologies SPD (www.maldon.gov.uk/spd)[14].

5.12 It may also be appropriate to consider increasing the density of development to enable the delivery of additional affordable housing where this meets exemplary design standards. This will be assessed on a site-by-site basis.

5.13 The total number of car parking spaces for affordable homes and/or the management of the car parking arrangements should be negotiated at the pre-application stage and reflect the Vehicle Parking Standards SPD[15]. The capital cost of parking provision should be borne by the developer so that the designated parking results in no additional cost to the occupants.

Management

5.14 In general, affordable housing should be developed in conjunction with a Registered Provider, approved by Homes England. In exceptional cases, where an alternative provider is involved, they will need to be approved by the Council and will be expected to deliver affordable housing in the same way as a Registered Provider. Evidence of equivalent accountability, funding for the scheme and long-term management and maintenance arrangements will be required.

5.15 A S106 agreement will be used to confirm the approach and to ensure, where appropriate, that the dwellings will remain available in perpetuity for those in housing need. There may be legitimate circumstances where affordable housing can be sold, for example, through right to buy or staircasing out of shared ownership. The provider will be expected to make every reasonable effort to recycle any subsidy for affordable housing in the District.

5.16 In setting affordable rents, Registered Providers should be guided by the Local Housing Allowance (LHA) rates for the District, as these rates will limit the amount of Housing Benefit available to households. Registered Providers are expected to use these rates as the upper limit in setting affordable rent levels. See the Council's Tenancy Strategy[11] at www.maldon.gov.uk.

5.17 The location, size and number of bedrooms, occupancy capacity and the tenure and phasing of affordable housing should be agreed at an early stage with the Council and the Registered Provider who will purchase and manage the affordable housing. So that the affordable housing meets all planning requirements, and the rents, service charges and maintenance are affordable to future residents, as indicated by the SHMA[2] annual housing costs are affordable if they do not exceed 30% of relevant local income:

- For intermediate affordable housing: based on the gross median local wage of a household in the District; and
- For affordable rented homes: based on the gross lower quartile LHA household income.

5.18 Developers must ensure the affordable dwellings are transferred as completed units at a price agreed with the Registered Provider, reflecting what they can pay for the dwellings without the need for other public subsidy. LDP Policy H1[1] expects that delivery of affordable housing will be based upon the provision of free serviced land plus the cost of construction of the units and a reasonable margin based upon current recognised standards. Developers may seek to obtain a value for affordable homes that is higher than this but in so doing should not use the expectation of these higher values as a minimum threshold.

5.19 Appropriate occupancy and management arrangements should be put in place: a nominations agreement must be signed for affordable rented properties with the Registered Provider or other affordable housing provider so that the Council has 100% nomination rights on the first let of all affordable homes in the District, and no less than 95% of any subsequent occupancy nominations.

5.20 Where a Registered Provider is unable to offer the Council this proportion of nominations for some types of intermediate housing (as a result of funding agreements for example) this should be agreed with the Council at planning application stage. The agreed nominations provision will then be identified in the S106 agreement.

5.21 Applicants are nominated according to housing need, in accordance with that Council's current allocations policy. In some cases, such as for specialist housing, exception sites

or Community-Led housing, the Council may request that nomination rights are granted to another appropriate authority nominated by the Council.

5.22 The NPPF[3] defines Build to Rent housing as *'a wider tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically being professionally managed stock in single ownership and management control*'. This means that a registered provider would not be involved. The Council would welcome discussion with a developer on any such proposals and the long term sustainability of that type of management arrangement. The process for managing affordable private rent units will be set out in a S106 agreement. This would include details of the lettings agreement, the rent levels, split of homes across the development and a management and service agreement.

Delivery of Affordable Housing

5.23 The expectation is that no more than 50% of the market housing on the application site should be completed before all affordable housing has been constructed, transferred or leased to the Registered Provider. Where land is being transferred the same approach will be used. This will be set out in the Heads of Terms for the S106 agreement.

Financial Contribution in Lieu of Affordable Housing

5.24 A financial contribution will only be acceptable where:

a) An LDP policy compliant scheme[1] does not generate a whole number. For example, if the percentage requirement generates 3.5 properties, 3 properties should be provided on site and a contribution would be required equivalent to the 0.5; or
b) The scheme proposes a small number of properties but exceeds the Policy H1[1] floorspace threshold; or
c) To create a better quality development there are justifiable design and housing reasons for affordable housing to be located off-site. For example, if the site size would result in a design and/or type of homes that would not meet the housing requirements identified by the Council; or
d) Provision of any affordable homes on site would make a development financially unviable but there is sufficient value from the development to make a financial contribution; or
e) The Council agree that the need for affordable homes could be better served through the receipt of financial payment.

5.25 The percentage target will be applied to the total number of market dwellings to be provided on the application site, including any increase in market units on the application site resulting from the provision of a financial contribution. Unless the type of affordable housing provided on site indicates otherwise, it should be assumed that this will be for a 2 bedroom, 4 person terraced house: this is the most common type of affordable housing required in the District.

5.26 The contribution will be based upon the average benchmark price to a Registered Provider for a home of that size and tenure (at the time of the application). The Council's

Housing Services will provide this information - these values are monitored at least twice a year.

5.27 All contributions will be based upon the formula below:

Developer contribution: A = B x C

A: the affordable dwelling payment
B: the average price for an affordable dwelling (by size and tenure)
C: policy requirement number of units

For example if 0.1 of a two bed property is required, which a Registered Provider is paying £100,000 for, then the financial contribution would be £10,000 = 100,000 x 0.1.

5.28 This approach has been used in the District since 2015 and is considered to be consistent with the three tests set out in national legislation relating to the use of planning obligations. The cost is a generally accepted value between Registered Providers and developers because it is directly linked to the cost of providing equivalent affordable homes in the District without including the cost of land which would be a disproportionate level of contribution for schemes which are struggling with viability. The costs are proportionate and can also be easily updated to take account of any changes in market conditions so the approach will remain relevant in the long term.

5.29 Where a developer considers that the financial contribution will make a scheme unviable, the Council will expect that evidence is submitted to ensure that the planning application can be considered effectively. This could include a viability assessment.

Payment of Contributions

5.30 Timing of delivery is important and the structure of the S106 agreement will reflect this. No less than 50% of the contribution should be paid prior to the commencement of the construction of any housing on the application site. The remaining contribution shall be paid by the date 50% of the market units on the site, or in the phase have been completed. This should be in accordance with a scheme of works to be submitted to the Council for approval. Where a development is being constructed in phases, this will apply to each phase unless it is agreed that the provision of affordable homes can be addressed in subsequent phases. In the case of large financial contributions, it may be possible to negotiate phased payments, particularly where it helps to improve scheme viability.

5.31 So that a financial contribution keeps its value and reflects changes in inflation costs arising between the date of planning permission and payment, financial contributions will be adjusted in line with an index of inflation, usually the Royal Institute of Chartered Surveyors (RICS) and Building Cost Information Service (BCIS) indices. This will be set out in a S106 agreement.

5.32 The contribution will be ring-fenced and - because affordable housing is not capable of being funded by the Community Infrastructure Levy - if necessary, pooled, to provide or increase the proportion of affordable housing in the District; alter the tenure of

affordable homes to help deliver affordable housing; or, make changes to the existing housing stock to meet an identified housing need; or, adjust tenures to meet the need of the District. In some cases, contributions may be sought to enable the provision of affordable housing - e.g. to provide infrastructure, remediation or re-provision of open space to allow the release of a suitable site for affordable housing where this will be the most cost-effective solution and an additional affordable homes will be provided.

5.33 All contributions will be allocated within 10 years of receipt of the funding. This is considered to be a reasonable timescale for the delivery of affordable housing. However, where a more strategic or complex intervention is needed, or resources need to be pooled from several large scale developments, then a longer time period may be sought (up to a maximum of 15 years). If the contribution is not spent at the end of the agreed contribution period, if requested by the payee, it will be returned.

6. EXCEPTION SITES

6.1 The NPPF[3] defines exception sites as '*small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding*.'

6.2 Entry level exception sites have been introduced by the NPPF[3]: *'a site that provides entry level homes suitable for first time buyers (or equivalent for those looking to rent)'*. *These should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.* Although the LDP is silent on entry level exception sites, the Council consider that the following guidance should apply to all exception sites.

6.3 LDP Policy H5[1] sets out the following process all applicants for Rural Exception Sites must use:

Stage 1: Getting Started

6.4 The best way to deliver affordable housing in rural areas is by working in partnership with key stakeholders, in particular with local communities. This includes Neighbourhood Forums who should lead on any needs identified in a Neighbourhood Plan. The Council will seek to achieve Exception Sites where the local community has given its support.

6.5 Registered Providers are encouraged to share information about potential development opportunities and local housing needs. Advice on housing and planning issues can be provided at pre-application stage.

Stage 2: Local Housing Needs Assessment

6.6 Exception sites should only be brought forward if there is a proven unmet local need for affordable housing in the area (see LDP Policy H5[1]). For a community to be eligible for an exceptions site, a Housing Needs Assessment will be required. This should identify the level of affordable housing need in the Parish or relevant local area. A key part of the assessment is the Housing Needs Survey. The scope and methodology should be agreed with the Council. The survey should be widely distributed in the parish or local area, be in accordance with recognised guidelines and should address the housing need of each relevant household, including:

- Local connection information (e.g. length of time lived in the parish/area, close family living in the parish/area, employed in the parish/area, grown up in the parish/area);
- Reasons for housing need;
- Income and expenditure;

- Tenure appropriate to meet housing needs and aspirations;
- Household size, age and composition;
- Specific housing requirements such as need for adaptations, level access, need for housing related support.

6.7 The Council should be contacted for available information about housing need. Information relating to consented residential development schemes in the locality should be assessed, particularly relating to housing mix. The survey results should identify an affordable housing need and the type of that need, and that the need can be delivered through a viable development.

6.8 Information about household size and tenure will inform scheme design, dwelling size and tenure mix. Income information in relation to their needs and local housing costs will be assessed against the housing need criteria for the Council's housing register and will help determine whether affordable housing is needed.

6.9 The survey results and assessment should be discussed with the Council and the Registered Provider, if known. Only if it is clear from the survey that there are people living in the parish who are in housing need and are unable to compete in the housing market (to buy or rent) because of the level of their income, is an exception site a possibility. The survey will give an indication of the number, type and tenure of affordable homes that are needed by people with a local connection to ensure that the proposal is meeting a genuine housing need and is not providing an over concentration of a particular type of housing in an area of the District. Individual responses will be kept confidential.

Stage 3: Selecting a Registered Provider

6.10 It may be useful to select and work with a Registered Provider at an early stage so that guidance can be provided on the feasibility of a possible development. To ensure that the housing is developed and managed appropriately, it is important that the provider is either approved by Homes England or operates in the same way as a Registered Provider (see 5.14 for further details) and is approved by the Council's Housing Service.

6.11 Exceptions sites are those which are 'exceptions' to adopted planning policy. Although landowners should expect a fair return for their land the value will not be the same as that generated by a policy compliant development taking into account alternate use as well as existing use value (see Section 8). The Council may refer to other similar developments to provide a benchmark.

Stage 4: Site Selection

6.12 Rural exception sites should be small scale, preferably adjacent to the defined settlement boundaries and outside the strategic growth areas. Entry level exception sites should be consistent with national policy[3]. Applicants should consider a number of potential sites in a locality to ensure that the most sustainable is selected. This is important to justify site selection particularly if the proposed site is detached from a settlement boundary. Previously developed land and conversion of buildings should be considered: the Council's Brownfield Land Register is a good starting point (see www.maldon.gov.uk for more details).

6.13 The assessment for each site should include information on:

- Relationship to the built form of the existing settlement;
- Highway, pedestrian and cycle access and safety;
- Ability of local infrastructure to accommodate the development;
- Accessibility to key local shops and services;
- Environmental constraints: including landscape character, flood risk, heritage assets, ecology assets, agricultural land quality; and
- Implications of any relevant planning policy

Information is available in the LDP evidence base (see www.maldon.gov.uk/LDP).

6.14 Site availability is a key factor: The willingness of the landowner to make a site available for development at the correct time, on acceptable terms and at fair value will be a key factor in determining viability and deliverability.

Stage 5: Identifying Amount and Mix of Housing

6.15 Once the preferred site has been selected, detailed proposals will need to be worked out with the Council's Housing Officers and the Registered Provider/enabler. The number, size and tenure mix of dwellings will vary according to the level of local need identified by the Housing Needs Survey, the nature of the site identified and the size of the existing settlement. But, the amount and type of housing proposed should be in keeping with the role, function and sustainability status of that settlement.

6.16 National policy[3] states that an element of market housing may be appropriate on a rural exception site. The Council consider this should be the minimum needed to cross subsidise a viable affordable housing scheme, without public subsidy, to ensure the focus of the scheme remains affordable housing delivery (and keeping the land value at a level sufficient to allow a Registered Provider to be able to deliver a viable scheme).

6.17 All schemes must be deliverable: Viability should be confirmed, (taking account of any planning and financial constraints which exist) this could in the form of a viability assessment (see section 8.0). Where market housing is proposed the evidence will need to show that the proportion of market housing is essential to deliver the agreed amount of affordable housing identified in the Housing Needs Survey.

6.18 It is important that a pre-application consultation is undertaken. This provides the Registered Provider and the local community with the opportunity to clarify and confirm local expectations and modify the scheme prior to submitting a planning application.

Stage 6: Submit Planning Application

6.19 The Registered Provider will progress the site through the consultation, planning and development process. The design should minimise the impact on the character and appearance of the adjoining townscape and the wider countryside.

6.20 All exception sites are subject to a S106 agreement to ensure that the properties (or where there is a market element, the affordable units) will be available for people in housing need and prioritised for those with a local connection to the parish or group of

adjacent parishes, in perpetuity. The draft Heads of Terms should be agreed at planning application stage.

Stage 7: Delivery and Management

6.21 Applicants will be required to show that the type of housing and the nominations rights set out in the S106 agreement (see paragraphs 5.14-5.21) meet the needs and requirements of that local community. Amendments may be sought to the nominations rights, including the prioritisation of intended nominees where this does not adequately reflect the outcome of the public consultation. The eligibility requirements should comply with the Housing Act 1996 Part VI – the Allocation of Housing Accommodation.

7. PROCEDURE FOR NEGOTIATING AFFORDABLE HOUSING

7.1 Developers are expected to be familiar with the content of the LDP[1] and the guidance contained in this SPD before a planning application is submitted. Therefore all schemes should be policy compliant. To make sure that planning applications requiring affordable housing are dealt with in a consistent and transparent way a clear process will be used.

Pre-application and application negotiations

7.2 Developers should discuss their proposals with the Council before submitting a planning application. Pre-application discussions enable developers to positively discuss appropriate provision and justify their approach. This is particularly important in those exceptional circumstances where a scheme is not expected to be policy compliant. Pre-application discussions will highlight the likely impact of development, the amount and type of affordable housing required, and level of other developer contributions likely to be sought. This service is intended to help speed up the development process and avoid unacceptable proposals. Further information on the pre-application and planning application process is available on the Council's website www.maldon.gov.uk

7.3 For pre-application discussions to be productive developers need to ensure that as much information as possible is supplied. This should include, where known, information on:

- Total amount of affordable housing proposed;
- Total amount of housing proposed in terms of units and habitable rooms;
- Amount of affordable rented and intermediate housing proposed;
- Number of bedrooms, floor areas and number of people able to occupy affordable rented and intermediate housing units;
- For each tenure, the numbers of dwellings of different sizes (i.e. number of bedrooms);
- The weekly cost to the occupier of the proposed affordable units including realistic and affordable service charges;
- Details of the affordability and tenure of the intermediate homes and how these will provide for a range of income groups;
- Assumptions on cost of transfer to a Registered Provider;
- Phasing of delivery and the mechanism for handover of affordable homes;
- Nomination rights;
- Mechanisms for ensuring adequate management of the properties.

This information will form the basis of the draft Heads of Terms.

7.4 If pre-application discussions are not sought, affordable housing requirements will be identified when a planning application is submitted. To reflect current Government thinking the Council will expect all relevant applications to submit draft Heads of Terms containing the information identified in paragraph 7.3 and proof of title. The applicants'

solicitor's details should also be provided. Applications that do not include this information will not be validated.

7.5 At outline planning application stage it may not be clear how many dwellings are proposed, and potentially this number could change at reserved matters stage. Where the housing mix has not been determined in an outline planning application, the Council will append a planning condition which stipulates that the details of the housing mix are submitted as part of the Reserved Matters application and should be in accordance with the SHMA[2].

7.6 CIL will only be applied to market housing.

Section 106 agreements

7.7 Provision of affordable housing will be secured by Section 106 (S106) agreement. This is a deed entered into by the Council and the landowner and/or applicant which outlines the details of a planning obligation, such as affordable housing. It is made under the provisions of Section 106 of the Town and Country Planning Act 1990.

7.8 S106 agreements run with the land so will bind successive owners. It is recorded as a land charge. If the applicant does not own the land the landowner and any third parties of the mortgage will need to be party to the agreement. A S106 agreement may contain a number of planning obligations depending on the complexity and scale of the development and what would be necessary in order to grant planning permission.

7.9 It is advisable to involve a solicitor because the deed and its undertakings can restrict the use of the property or land in the future. Alternatively, some applicants may choose to use their agent or planning consultant. However a solicitor will be required to confirm title to the land concerned.

7.10 The length of time taken to complete a S106 agreement will vary. However, to ensure the S106 agreement process is efficient, draft Heads of Terms should be submitted with the planning application to enable the Council to finalise the agreement as soon as possible after the planning permission has been granted (subject to a S106 agreement) by Planning Committee. But this will depend on the agreement being substantially completed (and where necessary that Committee is aware of its substantive contents) and being capable of being signed by all parties soon after the decision is made. A completed S106 agreement must be agreed and in place before planning permission can be granted.

7.11 The Council uses a standard S106 template, with standard clauses for affordable housing. S106 agreements can be lengthy and complex: An executive summary should be provided which sets out details of the development, *'what is to be provided by each planning obligation, including any affordable housing to be provided and any trigger points for contributions'* (Viability PPG, 023). Triggers will be used to enable delivery of affordable housing or a financial contribution. Appropriate clauses will be included to secure interest for late payment from the relevant trigger point in the agreement. In exceptional cases, the original Registered Provider may be unable to fulfil their agreement to deliver the housing. To prevent the housing being lost from the affordable

stock a standard clause will be used to require the developer to secure a second Provider.

7.12 Legal agreements should incorporate mortgagee in possession clauses appropriately, to protect the lender's investment. Where a Registered Provider fails to repay a mortgage and the lender takes possession of the property(s), the lender can then sell the homes as market housing.

7.13 The developer will be expected to pay the Council's legal costs for the preparation of a S106 agreement and any deed of variation.

Re-negotiation of a S106 Agreement

7.14 The Council will work with developers to find solutions in cases where the viability of the scheme has been proven to have substantially changed and there is difficulty in meeting the affordable housing trigger set out in a S106 agreement or complying with other terms in the deed. Such circumstances could include: where the development is proposed on unallocated sites of a wholly different type to those used in the Whole Plan Viability Assessment[16]; '*where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from the standard models of development for sale; or where a recession or similar significant economic changes have occurred since the LDP was approved'* (Viability PPG, 007). An option to improve viability could be through agreeing provision at a later stage of the development, or agreeing payments by instalments. In these cases the guidance in Section 8.0 will apply.

7.15 A S106 agreement can be re-negotiated at any point, where both the Council and the developer/landowner wish to do so. If there is no agreement to voluntary re-negotiate, and the S106 agreement predates April 2010 or is over 5 years old, an application will be required to change the obligation where '*it no longer serves a useful purpose'* or would *'continue to serve a useful purpose in a modified way'* (Planning Obligations PPG, 2016, 009). Guidance concerning applications received before the end of April 2016 still applies and can be found at www.gov.uk

7.16 Where a S106 agreement is amended a Deed of Variation will be required to ensure any relevant changes to the planning obligation are captured. The Council will not adjust the affordable housing provision downwards through the use of a Deed of Variation but will consider varying the tenure of the affordable housing (without reducing the number of units) in this way if it is agreed that viability will be improved.

7.17 Affordable housing is required to make a scheme policy compliant. Therefore, in those exceptional cases where it is agreed by all parties that a reduction in the level of affordable housing is required, a new or modified planning permission will be required.

Administration and Enforcement

7.18 The developer will be liable for the Council and the Registered Provider's legal costs and for drafting, negotiating and signing any S106 agreement and variation agreements.

7.19 Monitoring of obligations will be undertaken by the Council's S106 Monitoring Officer. This will ensure all obligations are secured at the right time and are delivered within the right timeframe by the Council, the developer and the Registered Provider.

7.20 If a S106 agreement is not being complied with, the Council will enforce obligations through the relevant legal channels once all other reasonable approaches have been exhausted. In such cases, the Council will seek to retrieve its legal costs against the party that is in breach of its obligations. The Council also has the power to enter land and carry out any works that are required and, if necessary, recover costs from the developer or landowner.

7.21 A regular S106 Monitoring Report to the Council's Overview and Scrutiny Committee will provide transparency: this will identify affordable housing/financial contributions negotiated and affordable housing delivered in the previous financial year, as well as those planned for the coming year. Progress with S106 agreements and expenditure in general will be reported annually in the Council's Infrastructure Funding Statement to be submitted to Government and in the Maldon District Authority Monitoring Report.

8. VIABILITY ASSESSMENTS

8.1. A viability assessment is an appraisal of the economics of a development. It can be used to determine what level of affordable housing an applicant could provide that would not prevent the delivery of a development.

8.2. It is essential that developers and agents manage the expectations of landowners. It is not acceptable for land values to be based on the price paid for land, an aspirational sum sought by a landowner, assumptions of low affordable housing delivery, excessive densities, or predicted value growth as these will lead to inflated site values. This undermines the implementation of the LDP and the ability of the Council to deliver affordable housing.

8.3. A viability assessment includes calculating the uplift in land value arising as a result of planning permission being granted for a proposed development. The Viability PPG (013) states that *'to define land value for a viability assessment, a benchmark land value should be calculated on the basis of the existing use value (EUV) of the land, plus a premium for the land owner. The premium for the landowner should reflect the minimum return at which a reasonable landowner would be willing to sell their land.'* This is also known as Existing Use Value Plus (EUV+). If the residual land value is below the benchmark land value for the site, the applicant should provide evidence to justify the uplift to existing and alternative use values.

8.4. Therefore, a viability assessment should be based on the benchmark land value for a policy compliant scheme, which should allow for the landowners premium, abnormal costs and be informed by current market evidence.

8.5. The Viability PPG (014) states that the benchmark land value should *'be informed by market evidence including current uses, costs and values'.* It adds that *'this evidence should be based on developments which are compliant with policies, including for affordable housing… This is so that historic benchmark land values of non-policy compliant developments are not used to inflate values over time.'* RICS adds that *'if market value is based on comparable evidence without proper adjustment to reflect policy compliant planning obligations, this introduces a circularity, which encourages developers to overpay for site and try to recover some or all of this overpayment via reductions in planning obligations'* (Financial Viability in Planning, 2012[17]). A market value approach will therefore not be accepted.

8.6. The Viability PPG (014) states that *'the cost implications of all relevant policy requirements including planning obligations, and where relevant, any Community Infrastructure Levy (CIL) charge should be taken into account.'* Affordable housing should be identified as a development cost because it will influence the level of uplift in land value once planning permission is granted. The Council agrees that benchmark land values that are not based on appropriate evidence do not necessarily deliver the

maximum amount of affordable housing. The Council will work with developers to agree a model which does deliver the maximum affordable housing, taking into account all other aspects of the development.

8.7. As such, the Council's default position is that all qualifying development should comply with LDP Policy H1[1]. As the affordable housing requirements are set out in the approved LDP the Council considers that the cost of providing affordable housing, at the policy compliant level, should be factored into any land valuation prior to an offer for the land being made. The Viability PPG (014) reinforces this *'under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan. Local authorities can request data on the price paid for land (or the price expected to be paid through an option agreement).'* This approach avoids:

8.8. Unrealistic land value demands and the developer having to re-negotiate the land value with the landowner at a later date;

- Having to negotiate a lower than policy level of affordable housing; and
- The risk of an application being refused.

8.9. But, there will be circumstances where viability is a genuine concern and needs further consideration. A viability assessment will help the Council determine whether the proposed level of affordable housing (and other developer contributions) is the maximum that can be reasonably delivered, or whether there is scope for further contributions to be made as part of a viable scheme. The Council will use the process overleaf to assess viability. A standard toolkit may also be introduced to allow comparison of sites.

8.10. To ensure the planning application process is open and transparent the Viability PPG (021) requires that any *'viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made available'*. This is consistent with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 that all information should be publicly accessible. These are qualified by a public interest test and recent tribunal decisions (e.g. Royal Borough of Greenwich vs ICO & Shane Brownie EA/2014/0122; RB and Clyne vs ICO & Lambeth EA/2016/0012): demonstrating that the public interest in keeping confidentiality rarely outweighs the public interest in disclosing information. As a result, the majority of information submitted as part of, and in support of a viability assessment, including any review or assessment of the appraisal undertaken for the Council, will be published for comment.

8.11. National legislation allows for limited exceptions, *such as information relating to ongoing negotiations over land purchase, information relating to compensation that may be due to individuals* (Viability PPG, 021). Developers will be required to demonstrate why disclosure of specific information would cause an 'adverse effect' and harm to the public interest. The Council will assess all exceptions against the adverse effect and public interest tests set out in national legislation. If these exceptional circumstances are likely to arise, these should be identified at pre-application stage.

Pre-Application Stage

8.12. At this stage, the level of detail required in a viability assessment will depend on the scale of the proposal and how much detail it contains. But if there are likely to be policy compliance issues, it is recommended that detailed viability information is provided to give the Council the opportunity to provide applicants with relevant advice. Failure to provide an assessment which has been prepared in accordance with this SPD will limit the advice the Council are able to provide, and may slow the planning process once an application is submitted.

VIABILITY ASSESSMENT REQUIRED?

An assessment will be required for:

- Non policy compliant proposals;
- Schemes providing a financial contribution;
- Schemes intending to be built out in phases, and/or where a review mechanism is required as part of the S106 agreement;
- Schemes seeking Vacant Building Credit; and
- Exception sites or Community-Led Housing.

SUBMIT ACCESSIBLE VIABILITY ASSESSMENT

Each viability assessment should be based on current costs. The viability assessment must be 'unlocked' – i.e. all data must be able to be accessed by the Council and its consultant. Locked viability assessments will be rejected. The full working model, calculations used and statistical analysis should be on an Excel base with a covering report detailing the viability assumptions and any supporting evidence. Non-Excel versions should be submitted with conversion software.

On submission of an assessment the applicant will provide a written undertaking to pay the Council's reasonable costs of an evaluation of the assessment by an external consultant including other professional advice if needed such as for highways or ecology advice. The consultant's report will identify the maximum viable amount of affordable housing that can be delivered as part of a scheme.

PLANNING APPLICATION DETERMINED

In most cases where viability is an issue, the application will be determined by Planning Committee and not under delegated powers by officers. If planning permission is granted, this will be subject to the completion of a S106 agreement detailing the affordable housing provision (and potentially other matters).

SIGN S106 AGREEMENT

Planning permission may be granted subject to early and late stage reviews. This will be determined on a site-by-site basis (see paragraphs 8.14-8.20). An executive summary of the S106 agreement will also be required. Where considered necessary, any review mechanisms will be set out in the S106 agreement.

Figure 2: Viability Assessment Process

Policy Compliant Scheme

8.13 The Viability PPG (007) states that *'where up to date policies have set out contributions expected from development, planning applications that comply with them should be assumed to be viable.'* However, the Council may request that the developer demonstrates how the affordable housing will be delivered as part of a viable scheme. Should the applicant then seek to change the affordable housing provision because of viability, this information will be used as a benchmark for any negotiations. In these cases, applicants should first engage with the Council to see if it the original affordable housing can be achieved with grant.

Varying planning conditions

8.14 Where an application is made to vary a planning condition that will have an adverse impact on the provision of affordable housing, a viability assessment may be sought as evidence to support the planning application. This includes:

- To increase or decrease the number of residential units in a scheme; and/or
- To vary the tenure mix, or there is a change of use of units to residential; and/or
- To change the use of any non-residential units; and /or
- To change the development, that in the opinion of the Council could alter the viability position. Any application to amend or vary a planning condition might also require a Deed of Variation to the original planning permission to ensure that the originally agreed terms are applicable to the new permission.

Review Mechanism

8.15 Development values within a viability assessment should be based on current values at the time the planning application is submitted. But, there is normally a time lag between granting planning permission and building out the development. Planning permissions allow three years within which to start construction and the development period can lead to further delays. During this time, significant changes can occur to viability.

8.16 There may also be circumstances where the Council acknowledges that at the point an application is being assessed a policy compliant scheme is not possible, but the position could change due to reductions in costs, increases in values and reduced risk. Any improvements in viability over the development period should benefit the community as well as the developer.

8.17 The Viability PPG (009) states that *'Plans should set out the circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles'.* However, the Council may request that review mechanisms be used in the following cases:

- For an approved scheme with a policy non-compliant affordable housing offer: the S106 agreement will provide for a re-appraisal of viability based on time or unit number triggers;
- For phased, larger scale developments: it may be that the total affordable housing requirement cannot be secured at the planning application stage but there may be

an opportunity later, usually as a result of increased sales values in relation to construction costs, or positive changes in market conditions, that allows a positive re-assessment that demonstrates additional viability. This would allow funding for additional affordable housing to be secured, whilst maintaining the viability of the overall development;

- For developments that have abnormal costs, such as site remediation or infrastructure, where funding becomes available to reduce these costs.

8.18 Should a review mechanism be considered appropriate, the Council will expect:

- Full disclosure of all relevant information. All development expenditure should be reasonably and properly attributed to the development;
- Inputs to the assessment to be in line with this SPD;
- Where there is a non-standard transaction, the figure to be included in the assessment; and
- Re-assessment to be the open market value of the market dwelling(s) as at the date of the transaction.

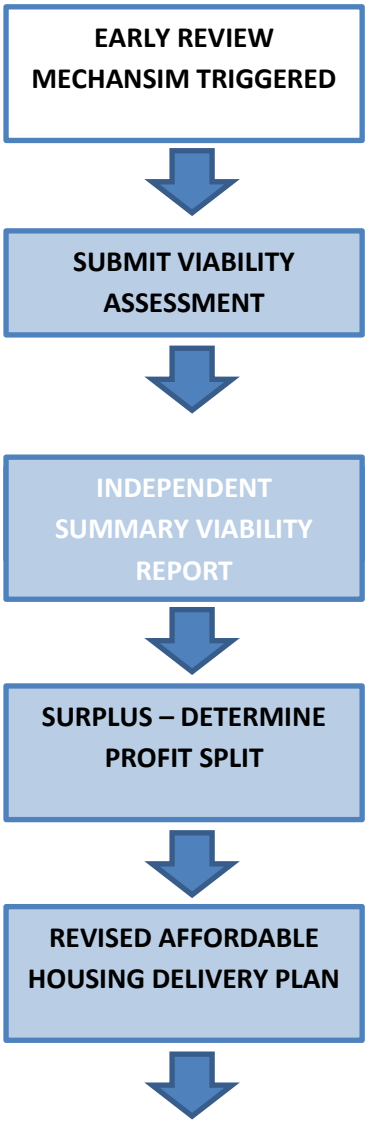
8.19 The timing of a review will be determined on a site-by-site basis to reflect the number of homes being developed and the development timetable. But all reviews must take place before the sale of the whole development to ensure that the review and any additional contribution arising from this are enforceable. The Council's review mechanism process is set out overleaf.

Terms of review mechanisms

8.20 Where review mechanisms are used the S106 agreement will:

- Identify the point(s) at which the review(s) should take place;
- Establish a threshold level of viability at which additional affordable housing and/or developer contributions will be required based on the target profit agreed at the application stage and the developer's cash flow over the development timetable;
- Establish that the review will assess changes to costs, values and reasonableness of margins;
- Be based on the current 'actual' data from the development – the price paid or rental value for the completed unit benchmarked against similar schemes. This will depend on the timing and specifics of the review;
- Establish a cap for additional provision as that for a policy compliant scheme;
- Identify whether the affordable housing provision will be sought on-site or as a financial contribution;
- Make provision for the full costs of the Council of negotiating, undertaking and assessing a viability review which should be borne by the applicant.

8.21 The Council will use this approach at each review stage until the later review. If a late review is required (when 75% of units have been completed) a financial contribution will be sought to deliver the additional affordable housing. The viability assessment undertaken to inform any previous reviews should inform any subsequent assessments. See Appendix 5 for formulas used to secure affordable housing.



Timing of the review will be set out in the S106 agreement. This will vary on a site-by-site basis to reflect the type, size and scale of the development e.g. after occupation of the 50th unit. For larger or phased developments there may be more than one review (see overleaf for information on later review).

Within 10 days of the trigger the developer/owner will be expected to have submitted their viability assessment to the Council. The assessment will compare the GDV and costs at the review date, with the GDV and costs submitted in the viability assessment for the planning permission. This means that the review can be based on values achieved and costs incurred. Appendix 4 sets out the pro-forma for submissions.

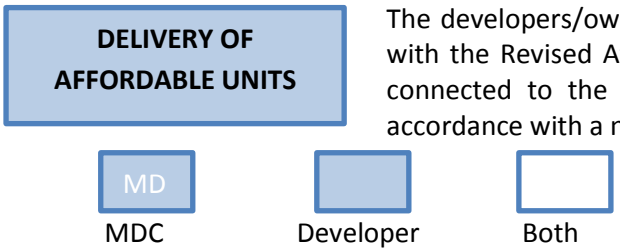
MDC will send the assessment to an independent assessor for analysis. This will be at the developers' expense. The assessor will produce a Summary Viability Report and return it to MDC. If a meeting is required all parties should attend to discuss the content.

If the viability assessment and/or the Summary Viability Report identify a development surplus the profit split between MDC and the owner/developer will need to be determined. This will be carried out on a site-by-site basis. If the Summary Viability Report produces no surplus the developers/owners should continue with the consented scheme.

Where there is a surplus, the developers/owners will be required to submit a Revised Affordable Housing Delivery Plan within a month of receipt of the Viability Report. The formula in Appendix 5 will provide the basis for determining how the surplus will be spent. This could include altering:

- The percentage of residential units to be provided as affordable housing; and/or
- The affordable housing tenure mix; and/or
- The housing mix.

Plans should identify the affordable housing on the development site. This may involve identifying which market homes will be converted to affordable housing. A schedule should be provided setting out the tenure and mix. The proposed units and the secured affordable housing units should equate to the affordable housing target for the site. In all cases, the LDP Policy H1 percentage requirement will not be exceeded and the level of affordable housing should not go below that in the S106 agreement. Provision could be delivered over subsequent phases of the development: this would need to be set out in the S106 agreement.



The developers/owners will deliver the affordable housing in accordance with the Revised Affordable Housing Delivery Plan. All homes should be connected to the highways and utilities network and be provided in accordance with a nominations agreement.

Figure 3: Review Mechanism process

9. MONITORING AND REVIEW

9.1 The delivery of affordable housing through new development will be monitored annually in the Council's Infrastructure Funding Statement and also in the Maldon District Authority Monitoring Report. It will enable the Council to identify and monitor the number of developments that meet identified standards across the District.

9.2 A review of this SPD will be considered if:

- The AMR identifies that Policies H1, H2 and H5 are not effective in delivering the identified level of affordable housing;
- There are significant changes to the Local Development Plan's evidence base that indicate the LDP is unable to deliver the identified level of affordable housing;
- There is a significant change in national planning guidance; or
- The SPD is insufficiently effective in enabling affordable housing.

Glossary

Abandoned Building		Where the lawful planning use of the building has been abandoned for a continuous period of five years.
Affordable Housing		**Affordable housing:** 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.
Alternative Use Value	AUV	The comparison of the proposed use to the value of a permissible or feasible alternative use.
Authority Monitoring Report	AMR	A mechanism for assessing performance of policies contained within the Local Development Plan.
Benchmark Land Value	BLV	The value below which a reasonable land owner is unlikely to release a site for redevelopment.
Build to Rent		Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development scheme comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.
Co-housing		Intentional, self-managed community, made up of single private dwellings and additional shared communal facilities such as a common house with a community kitchen and dining room. Cohousing communities can be mixed tenure.

Community Infrastructure Levy	CIL	A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.
Community Land Trust	CLT	Independent local organisations established to tackle housing market issues and create permanently affordable intermediate housing for purchase and for rent. CLTs sometimes own other facilities on behalf of the community.
Community-Led Housing		Development of affordable homes led by local community groups. Can take a number of forms and routes, such as self-build, Community Land Trusts or exception sites. Development must be in addition to developments allocated by the Local Plan.
Community Right to Bid		Community groups can nominate both privately and publicly owned assets to be included on a list of assets of community value. This list is managed by the council. If a landowner wants to sell a registered property, they must tell the council. If a community group wants to buy the asset, they can trigger a 6 month moratorium to give them a chance to prepare a bid for it. During this period, the owner cannot sell their property on the open market. This gives community groups an opportunity to develop a proposal and raise the required capital. At the end of the 6-months, the owner is free to sell the asset to whoever they wish and at any price. Also known as Assets of Community Value.
Community Right to Build		An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.
Cooperative housing		A housing organisation where tenants democratically control and manage their homes.
Developer contributions		Developer contributions, also known as planning obligations, can be secured via a Section 106 legal agreement or planning condition attached to a planning permission. They help mitigate any adverse impacts generated by new development on infrastructure and facilities.
Developer profit		A factor of gross development cost or gross development value and is the price at which a reasonable landowner would be willing to sell their land for the development.
Entry Level Exception Site		A site that provides entry level homes suitable for first time buyers (or equivalent for those looking to rent)
Existing Use Value Plus Premium	EUV+	The current use value of a site plus an appropriate site premium added to provide the landowner with an additional incentive to release the site.
Greenfield sites		Land that has not previously been developed.
Gross Development Value	GDV	All values that contribute to the overall value of a scheme.
Gross Internal Area	GIA	The area of a building measured to the internal face of the perimeter walls at each floor level.
Habitats Regulations Assessment	HRA	A Local Plan evidence base document that tests the impacts of a Local Plan or development proposal on nature conservation sites of European importance and is a requirement under EU legislation.
Local Development Plan	LDP	The plan for the future development of the local area, drawn up by the Local Planning Authority in consultation with the community. This is described as a Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.
Local Housing Allowance	LHA	Welfare payment for those on low incomes or reliant on benefits to meet the cost of housing.
Major Development		A proposal of 10 or more dwellings or a site area of 0.5 hectares or more, or non residential development is for 1,000 square metres or more of floorspace, or has a site area of 1 hectare or more.
National Planning Policy Framework	NPPF	Sets out the Governments planning policies for England and how these are expected to be applied.
Planning Practice Guidance	PPG	A web-based resource provides more detailed guidance on the contents of the NPPF.

Neighbourhood Plan		Formally introduced under the Localism Act 2011, a neighbourhood plan is prepared by a parish council or neighbourhood forum for a designated neighbourhood area. In law this is described as a neighbourhood development plan in the Planning and Compulsory Purchase Act 2004.
Previously Developed Land	PDL	Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.
Public Subsidy		Grant, public loans and public land.
RAMSAR Site		Wetlands of international importance designated under the 1971 Ramsar Convention.
Registered Provider	RP	Technical name for a body registered with Homes England so are approved to deliver affordable to deliver affordable housing in England. Most Housing Associations are RPs.
Residual Land Value	RLV	A method used to determine the value and potential profitability of land or property based on gross development value minus any expenses related to the development of the land.
Review Mechanism		Clause(s) in a S106 agreement designed to trigger changes in development values and build costs within a viability assessment as a result of development starting.
Rural Exception Site		Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant subsidy.
Section 106 Agreement	S106	A legal agreement entered into by the Council and the developer or applicant and Registered Provider which outlines the details of a planning obligation(s), such as affordable housing required to make an application acceptable in planning terms.
Self-help housing		Involves groups of local people bringing empty properties back into residential use. Use varies from long term tenancies to short life housing to meet immediate needs such as move on accommodation and supported housing.
Special Area of Conservation	SAC	Areas defined by regulation 3 of the Conservation of Habitats and Species Regulations 2017 which have been given special protection as important conservation sites.
Special Protection Area	SPA	Areas classified under regulation 15 of the Conservation of Habitats and Species Regulations 2017 which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds.
Strategic Environmental Assessment	SEA	A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.
Strategic Housing Market Assessment	SHMA	Assessment of the Council's housing requirements based upon the local housing market, which studies the supply and demand of housing, housing and planning policies, the need for affordable housing and the affordability of the local housing market.

Supplementary Planning Document	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.
Vacant Building Credit	VBC	Allows the floorspace of existing buildings that are to be redeveloped to be offset against the calculations for section 106 affordable housing requirements (whether financial contribution or provision).
Viability assessment		An assessment of all development costs including central and local government policy requirements, regulatory costs and the cost and availability of finance, to determine whether a scheme provides a competitive return to the developer and generates a land value sufficient to persuade the landowner to sell for the development proposed.
Whole Plan Viability Study		Identifies the costs that the Local Development Plan policies will impose on development, and considers what impact those costs will have on financial viability of a development scheme.

APPENDIX 1: REFERENCES

Reference Number	Document	Author	Publication Date
1	Maldon District Local Development Plan	Maldon District Council	July 2017
2	Maldon District Strategic Housing Market Assessment Update	DCA	2014
3	National Planning Policy Framework	MHCLG	July 2018
4	Maldon Affordable Housing Guide	MDC	December 2005
5	Strategic Environmental Assessment Screening Report	MDC	2017
6	Equalities Impact Assessment	MDC	2017
7	Planning Practice Guidance	MDCLG	
8	Maldon District Design Guide SPD	MDC	December 2017
9	Maldon District Specialist Needs Housing SPD	MDC	September 2018
10	Maldon District Draft Housing Strategy	MDC	2017
11	Maldon District Tenancy Strategy	MDC	2017
12	RICS Property Measurement	RICS	2015
13	Technical housing standards – nationally described space standard	DCLG	2015
14	Maldon District Renewable and Low Carbon Technology SPD	MDC	2018
15	Maldon District Vehicle Parking Standards SPD	MDC	September 2018
16	Local Plan and Community Infrastructure Levy Viability Study	HDH Planning and Development Ltd	August 2013
17	Financial Viability in Planning	RICS	2012

APPENDIX 2: KEY LOCAL DEVELOPMENT PLAN POLICIES

Policy H1: Affordable Housing

All housing developments of more than 10 units or 1,000 sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing.

The affordable housing requirements for each sub-area in the District are as follows:

Sub-area requirements	
North Heybridge Garden Suburb:	
North of Heybridge - S2(d)	30%
North of Holloway Road - S2(e)	40%
West of Broad Street Green Road - S2(f)	40%
South Maldon Garden Suburb	30%
Strategic Allocations at Maldon, Heybridge and Burnham-on-Crouch	40%
All other developments:	
Northern Rural, Maldon Central and South and Rural South*	40%
Maldon North and Rural South East Higher	30%
Rural South East Lower	25%

*As indicated in FIGURE 1 of this SPD

Any relaxation of the above requirements will only be considered where the Council is satisfied, on a site by site basis, that such requirement will render any development proposals unviable.

Affordable housing should be provided on-site, either through free serviced land provided to a registered provider or constructed affordable dwellings to be sold to a registered provider upon completion to provide the number, size, type and tenure of affordable homes required by the Council's policies having regard to the SHMA, the Council's adopted Affordable Housing Guide, and the Council's Housing Strategy.

In exceptional circumstances the Council may consider accepting financial contribution from the developer where it is justified that affordable housing cannot be delivered on-site, or that the District's need for affordable housing can be better satisfied through this route. Commuted sums will also be charged for an incomplete number of affordable units provided on site.

The development of any affordable housing and the calculation of any financial contributions should be in conformity with the details set out in the Maldon District Strategic Housing SPD.

Policy H2: Housing Mix

All developments will be expected to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable sector, particularly the need for an ageing population.

Wherever possible affordable housing should be located in a way that ensures the homes are integrated with the rest of the development; in most cases this will mean in clusters of no more than 15 to 25 homes in one part of a development. The design and appearance of affordable housing should also be indistinguishable from those built for the open market, meet standards detailed in the Maldon District Strategic Housing SPD, and be of a tenure recognised by the National Planning Policy Framework.

Where appropriate, the Council will work with developers, registered providers, landowners and relevant individuals (or groups of individuals) to address identified local need for Self Build housing. Any relaxation of the above requirements will only be considered where the Council is satisfied, on a site by site basis, that such requirements will render any development proposals unviable.

Policy H5: Rural Exception Schemes

Outside of the defined settlement boundaries and strategic growth areas, land which may not otherwise be considered appropriate for residential development may be released for a Rural Exception Scheme for affordable housing development where there is an identified need within that parish or community for affordable housing.
Any Rural Exception Scheme must adhere to the following process:

1) Engagement with local community and the undertaking of a local needs assessment in accordance with recognised guidelines; and then
2) Selection and appointment of a suitable Registered Provider of affordable housing in association with the Council; and then
3) Agreement with the Council on the quantum and composition of development most suitable to the locality based on an identified need, site availability, and an 'open book' viability assessment; and then
4) Identification of a number of potential sites in the locality and selection of the most sustainable site, taking into consideration site availability, condition and capacity of existing infrastructure servicing the proposed scheme.

The Council will normally expect Rural Exception Schemes to provide 100% affordable housing for local needs. Any other types of tenure, for example market housing, will only be considered where it can be demonstrated, through a viability assessment, that this is essential to facilitate the affordable housing scheme to meet the identified local need.

APPENDIX 3: AFFORDABLE HOUSING DWELLING MIX

The following example mixes are set out to reflect the sub-area requirements in Policy H1.

Sub Area Requirement of 40%
Example of 100 homes: 40 affordable of which:

30% general needs 1bed: – one third low cost home ownership = 12 1 bed homes (8 for rent and 4 low cost home ownership)
10% 1 bed bungalows for rent = 4 1 bed bungalows
10% 2 bed bungalows for rent = 4 2 bed bungalows
40% 2 bed general needs housing – 80% for rent = 16 2 bed homes (13 for rent and 3 low cost home ownership)
10% 3 bed+ - at least 50% for rent = 4 3 bed homes, at least 2 for rent

Sub Area Requirement of 30%
Example of 100 homes: 30 affordable of which

30% 1 bed – one third low cost home ownership = 9 1 bed homes (6 for rent and 3 low cost home ownership)
10% 1 bed bungalows for rent = 3 1 bed bungalows
10% 2 bed bungalows for rent = 3 2 bed bungalows
40% 2 bed = 12 2bed homes (10 for rent and 2 low cost home ownership)
10% 3 bed+ = 3 3 bed+ homes, at least two for rent.

Sub Area Requirement of 25%
Example of 100 homes: 25 affordable of which:

30% 1 bed – one third low cost home ownership = 7.5 1 bed (5 for rent, 2 low cost home ownership) contribution for 0.5
10% 1 bed bungalows for rent = 2.5 1 bed bungalows – 2 for rent, contribution for 0.5
10% 2 bed bungalows for rent = 2.5 2 bed bungalows – 2 for rent, contribution for 0.5
40% 2 bed = 10 2 bed homes (8 for rent and 2 low cost home ownership)
10% 3 bed+ = 2.5 3 bed+ - 2 for rent and contribution for 0.5

Financial contribution required for two units (0.5 x 2) alternately two additional bungalows.

APPENDIX 4: SUMMARY PRO-FORMA WORKSHEET

When a developer is preparing evidence to inform a review of affordable housing the Summary Pro-Forma should be based on the following:

Development Revenue	**Costs (£)**
Actual Market Revenue	
Forecast Market Revenue	
Actual Affordable Revenue	
Forecast Affordable Revenue	
Actual Commercial Revenue	
Forecast Commercial Revenue	
Grant	
Actual and Forecast Other Revenue or Receipts	
TOTAL REVENUES	
Development Costs (split between market housing, affordable housing and commercial)	
Actual Build Costs	
Forecast Build Costs	
Actual Infrastructure, Abnormals and S106 works	
Actual s106 contributions	
Forecast s106 contributions	
Affordable housing transfer fees	
[Incentives]	
Professional Fees	
Finance Costs	
Marketing Fees	
TOTAL COSTS	
Market housing Developer Profit on market housing development costs	
Affordable housing developer profit on affordable housing development costs	
Commercial development developer profit on commercial development costs	
Land cost	
SDLT	
Land agent and Legal fees	
TOTAL COSTS	

For the purposes of the proforma only the following definitions should be used:

- **Actual market revenues**: actual revenues based on land registry data [except shared equity (developer cash income only to be used)]
- **Forecast Market Revenues**: based on the last 6 months of Land Registry evidence to have regard to prevailing property market
- **Actual Affordable Revenues**: actual received affordable sales.
- **Forecast Affordable Revenue**: based on affordable sales from preceding phase
- **Actual Commercial Revenue**: actual achieved sales or appropriate evidence
- **Forecast Commercial Revenue**: based on appropriate evidence or preceding phase
- **Grant:** any additional third party funding for any aspect of the development unless it has been taken into account in order to determine the affordable housing revenue and the market housing revenue or other revenue or receipts
- **Actual and Forecast Other Revenue or Receipts**: any revenues received by the developer other than Affordable Housing Revenue, market revenue, and commercial revenue
- **Actual Build Costs**: build costs incurred or to be incurred, where known, of completed property, completed works, and contract prices of works underway or for which contracts have been let. Includes all contractor costs on open book basis
- **Forecast Build Costs**: for remaining works (not included in Actual Build Costs), excluding S106 costs, in the Remaining Development not under contract on open book basis
  [Actual Infrastructure, abnormals and S106 works costs: based on actuals – excluding contingency where spent. Forecasts would contain a contingency on open book basis
  [Forecast Infrastructure, abnormals and remaining S106 works: updated estimates with appropriate contingency. Consideration will need to be given where infrastructure works straddle the respective phases to ensure no-double counting or missing of costs].
- **Actual S106 contributions**: based on amount spent, with indexation, and any anticipated remaining S106
- **Forecast S106 Contributions**: based on updated estimates reflecting indexation for remaining scheme
- **Affordable transfer fees**: cost allowance for transferring the affordable housing units to the approved provider at 0.75% of the Affordable Housing Revenue verified by RPs
- **Incentives**: cost to the developer of any independently verifiable incentives that it provides to the buyer of a market unit which are justifiable and usual in the market at the date of the sale of the said market unit applies to forecast only on open book basis
- **Professional Fees**: allowance for costs incurred by the Developer for professional consultancy advice (excluding land) at 7% of building costs
- **Finance Costs**: an allowance for the cost of borrowing incurred by the developer of 6% of Total Revenue
- **Marketing Fees**: the cost allowance for agency and marketing fees incurred by the developer at an agreed % of market housing revenue and Non-Residential Revenue
- **Market Developer Profit**: an allowance of 20% of market housing Revenue
- **Affordable Developer Profit**: an allowance of 6% of Affordable Housing Revenue
- **Commercial Developer Profit**: an allowance of an agreed % of Commercial Revenues
- **Land Cost**: based on actual purchase price. Where only a proportion of the site is acquired upfront, this amount should be adjusted pro-rata for the balance of the scheme based on the number of dwellings per phase, and the land value within the 2nd Phase should be indexed at twice the rate of the Halifax HPI.
- **Stamp Duty Land Tax**: the prevailing stamp duty land tax rate applied to the actual land costs at the date of the purchase of the site or any part thereof or any other land required to perform the obligations containing in this agreement (including any modification, variation, amendment or replacement thereof)
- **Land Agents and Legal Fees**: cost allowance for agents and legal fees at 1.75% of Actual Land Cost

APPENDIX 5: Review Mechanism Formulas and Methodology

For more information on the definitions see Appendix 4.

Formula: Early Review: Identifying surplus profit
The Gross Development Value and actual build costs as agreed for the planning permission will be used. An updated scheme valuation will be required at the time the review is undertaken with actual build costs for the scheme. This will be used to work out the difference in GDV from the time planning permission was granted to the review. Any changes in build costs and an allowance for developer profit will be deducted from the additional scheme value. This will identify whether there is a surplus scheme profit. The remaining surplus scheme profit will be available for additional on-site affordable housing.

(A – B) – (C – D) – P = X

(A – B) = Difference in GDV from the date of planning permission to the date of review (£)
A = Gross development value at time of review (£)
B = Gross development value as agreed for the planning permission (£)

(C – D) = Difference in actual build costs from the date of planning permission to the date of review (£)
C = Actual build costs at the time of review (£)
D = Actual build costs as agreed for the planning permission (£)

P = (A-B) * Y = Developer profit on difference in Gross development values (£)
Y = Developer profit as agreed for the planning permission (£)
X = Surplus (£)

Formula: Early review: Identifying additional amount of affordable housing to be provided
Calculates the level of additional affordable floorspace based on the difference in average value of the market housing and for each tenure. This will be converted into habitable rooms based on the average habitable room size for the scheme.

Additional affordable rent housing requirement (habitable rooms) = ((E * F) ÷ (A – B)) ÷ D

(A – B) = Difference in average value of market housing (m^2) and average value of low cost rent housing (m^2) (£)

(E * F) = Policy surplus to be used for low cost rent housing (£)
(E * F) ÷ (A – B) = Additional affordable rent housing requirement (m^2) (£)

A = Average value of market housing per m^2 (£)
B = Average value of local cost rent housing per m^2 (£)
D = Average habitable room size for scheme (m^2)
E = Surplus profit available for additional affordable housing (as determined in the early review) (£)
F = Percentage of surplus profit available for additional affordable housing to be used for affordable rent housing (%) (as per the preferred tenure split)

Additional intermediate housing requirement (habitable rooms) = ((E * G) ÷ (A – C)) ÷ D

(A – C) = Difference in average value of market housing (m^2) and average value of intermediate housing (m^2) (£)

(E * G) = Policy surplus to be used for intermediate housing (£)
(E * G) ÷ (A – C) = Additional intermediate housing requirement (m²) (£)

A = Average value of market housing per m² (£)
C = Average value of intermediate housing per m² (£)
D = Average habitable room size for scheme (m²)
E = Surplus profit available for additional affordable housing (as determined in the early review) (£)
G = Percentage of surplus profit available for additional affordable housing to be used for intermediate housing (%)(as per the preferred tenure split)

Formula: Late Stage Review Contribution

Contributions are based on the difference in the average value of market housing and average intermediate housing value, per habitable room. This is multiplied by the shortfall in the relevant tenure of affordable housing by habitable room in the consented scheme, when compared with the LDP sub-area requirement and preferred tenure split.

((A + B) – C) – ((D + E) - F) - P) * ? = Z

(A + B) - C = change in GDV from the grant of planning permission (or previous review) to the late stage review (£)

A = GDV achieved on sale/ lease of x % of residential units and GDV from other parts of the development sold / let and other income receipts (£)
B = Forecast GDV for parts of the development that are yet to be sold/ let and other income sources (£)
C = GDV agreed at the time planning permission was granted (or previous review) (£)

(D + E) - F = change in actual build costs from the grant of planning permission (or previous review) to the late stage review (£)

D = Actual Build costs incurred at the time of review (£)
E = Forecast build costs for remainder of the development (£)
F = Actual build costs as agreed at the time planning permission was granted (or previous review) (£)

P = (A + B – C) * Y = Developer profit on change in GDV (£)
P = Developer profit on difference in GDV (£)
Y = Developer profit as a percentage of GDV as agreed at the time planning permission was granted (%)
? = Any surplus profit will be agreed on a site-by-site basis. It will deduct the developer profit (P), and will be shared between the LPA and the developer with a % used for additional affordable housing.