

Affordable Housing and Commuted Sum Strategy

1. Introduction

- 1.1 The aim of Maldon District Council's (MDC) Affordable Housing Policies and guidance is to ensure the development of balanced and integrated communities and to deliver good quality affordable housing. The need for subsidised, affordable housing provision has long been recognised. The cost of good quality private sector housing in the right location means that significant numbers of households lack the income to meet the market cost of housing. Without subsidised housing, these households can fail to obtain housing of an acceptable standard.
- 1.2 This strategy explains MDC's approach to the delivery of affordable housing where these homes cannot be delivered as part of a development on-site, or where the delivery of the affordable homes elsewhere is more sustainable than on-site. In these circumstances a monetary alternative is provided to fund this off-site provision as a commuted sum. In accordance with the NPPF this guidance is not prescriptive, rather it sets out principles which should be followed whilst undertaking viability assessments and determining an appropriate commuted sum. This provides flexibility when dealing with housing proposals that vary significantly in location, scale, type and tenure.
- 1.3 Acceptance of a commuted sum has been a very rare occurrence for the council as affordable housing has generally been delivered on-site. There is a likelihood that in the future commuted sum payments will happen on a more regular basis and, whilst individually these sums may be relatively small, the total value of commuted sum receipts will continue to grow.
- 1.4 A legal agreement under section 106 of the Town and Country Planning Act 1990 (S.106) may require the council to spend, or commit to spend, commuted sums received within a specified timescale. If they have not been used or allocated for use, a developer may, after the specified period, seek a return of a commuted sum payments. As a non-stock holding authority, affordable housing in the District is provided by Housing Associations who rely on public subsidy towards the capital costs of development; this adds an additional layer of complexity to the use of any commuted sums received.

Affordable Housing and Commuted Sum Strategy

- 1.5 It is therefore important for the council to have an agreed approach to enable timely and appropriate use of these monies.
- 1.6 The provision of affordable housing is considered to be in accordance with the Council's Corporate Plan (2021-2023); particularly 'Deliver the housing the District needs' and 'Deliver sustainable growth and new infrastructure through development'.

2. Definition of Affordable Housing

- 2.1 The NPPF Annex 2 defines Affordable Housing as:

"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

Affordable Housing and Commuted Sum Strategy

eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.”

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

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

- 2.2 Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
- 2.3 Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable Housing and Commuted Sum Strategy

- 2.4 Affordable rented housing is let by private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).
- 2.5 Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

3. Definition of Commuted Sum

- 3.1 A commuted sum is an amount of money, paid by a developer to Maldon District Council, where the size or scale of a development triggers a requirement for affordable housing, but it is not possible to deliver affordable housing on site. The sum will be used to provide affordable housing on an alternative site in the local authority.
- 3.2 The requirement for a commuted sum to be paid in lieu of on-site delivery of affordable housing is secured S.106 legal agreement. It is necessary to adhere to any specific constraints such as a time limit for the sum to be spent, or restrictions around locality for alternative provision.
- 3.3 The council can, in appropriate circumstances seek a legal agreement as part of a planning permission for a development. The Local Planning Authority must ensure that a S.106 obligation meets the relevant tests set out in the Community Infrastructure Levy Regulations 2010 (CIL).
- 3.4 It must be satisfied that the obligation is necessary to make the development is:
- Acceptable in planning terms;
 - Directly related to the development and fairly; and

Affordable Housing and Commuted Sum Strategy

- Reasonably related in scale and kind.

4. Maldon District Council's Affordable Housing Policy

- 4.1 The Council's Local Development Plan (LDP) seeks to deliver market and affordable housing that meets the needs and aspirations of existing and future residents, of different demographic groups and needs, over the plan period (2014-2029). Specifically, the affordable housing policy positions is defined by LDP Policies H1: Affordable Housing, Policy H2: Housing Mix, H3: Accommodation for 'Specialist' Needs and both the 'Specialist Needs Housing Supplementary Planning Document' and 'Affordable Housing and Viability' Supplementary Planning Documents.
- 4.2 All housing development of 10 or more units or 1,000m² are required to contribute towards affordable housing provision to meet the identified needs of the District. Policy H1 of the LDP sets out the affordable housing requirements for each sub-area in the District. These are shown in the table below as the percentage of affordable required in each development where required:

Sub-area Requirements	
North Heybridge Garden Suburb:	25%
North of Heybridge - S2(d)	40%
North of Holloway Road - S2(e)	40%
West of Broad Street Green Road - S2(f)	40%
South Maldon Garden Suburb	40%
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%

- 4.3 Since adoption of the Local Development Plan, the Government has set a national threshold of 10 units and maximum combined floor space of 1,000 sqm, beyond which, contributions to affordable housing provisions can only be

Affordable Housing and Commuted Sum Strategy

sought. This is a material consideration that MDC gives significant weight to through the Development Management process.

- 4.4 The Council does consider accepting financial contributions (commuted sums) from developers where it is justified that affordable housing cannot be delivered on-site or when the District's affordable housing needs can be better satisfied through this route.

Examples of where Commuted Sums may be acceptable

- 4.5 The Council expects on-site affordable housing to be provided on-site. Applicants should not automatically assume that a financial contribution in lieu of on-site affordable housing will be acceptable. However, it is accepted that, at times, it may be more beneficial to accept a financial contribution to better meet the District's affordable housing need. It is considered that these situations will include:

- The location of the proposed development is not in a sustainable suitable location (in relation to access to local services e.g. health, education and public transport).
- The location of the site is not considered appropriate for affordable housing.
- Delivery of on-site affordable housing in an area where there is already a dominance of a particular tenure of affordable housing.
- Where the applicant can demonstrate that no registered provider is interested in purchasing the proposed affordable housing element.
- There is a limited demand for this type of accommodation in the area, the type or tenure is considered to be unfavourable, there would be an overconcentration of a specific type or tenure of accommodation
- When the contribution would make up part of a flatted block and/or when the size of the units may be unattractive to a registered provider (This would normally only be relevant when considering the conversion of an existing building rather than the provision of a new development).

Affordable Housing and Commuted Sum Strategy

- It can be demonstrated by the applicant that delivery is not possible because of viability constraints (an accompanying viability assessment will be required).

How will the Commuted sum be calculated

- 4.6 On sites where the Council has decided to take a financial contribution the Council will calculate the payment to be made. The formula used to work out the commuted sum is set within Maldon District Council's 'Affordable Housing and Viability Supplementary Planning Document (SPD)'. All contributions will be based upon this formula:

Developer contribution: $A = B \times C$

A: the affordable dwelling payment.

B: the average price for an affordable dwelling (by size and tenure).

C: policy requirement number of units.

5. How will the Commuted Sums be spent

- 5.1 The Local Authority will use financial commuted sums in a number of ways and will require the flexibility to do so to be reflected in its approach and in the s.106 agreement. Where the contributions are accepted they will be used to provide an additional affordable housing enabling tool aimed at meeting the housing needs of the District. Commuted sums will be earmarked to enable the provision of affordable housing through a variety of means such as:

- To support and facilitate the delivery of affordable housing led development;
- To support the delivery of new build affordable housing;
- To create additional, larger or a different tenure mix within the existing affordable housing provision;
- To provide funding in order to make it possible for a higher proportion of affordable homes on a site than is required by policy;

Affordable Housing and Commuted Sum Strategy

- To fund extra units of affordable housing on alternative sites or additional units outside of those secured under the S106 agreement;
- For the deliver of affordable housing schemes that meet the specific hosing needs of the residents of the District;
- Acquisition of single dwellings that can be used for affordable housing units when opportunities arise.
- Secure long-term temporary accommodation.

6 Conclusion

- 6.1 Commuted sums provide a valuable opportunity for the councils to ensure that where delivery of affordable housing on a site is not possible, alternative provision can contribute towards the councils' aims of delivering affordable homes to meet local need.
- 6.2 There is a need for guidance to be approved for the spending of commuted sums, which allows for the appropriate and timely use of these payments to provide new-build affordable housing that meets the housing needs of the District.