Report to	Sustainable development panel	**Item**
	27 February 2019	
Report of	Director of regeneration and development	4
Subject	Affordable housing supplementary planning document – report back from consultation	

Purpose

To inform members about feedback from the public consultation on the draft Affordable Housing supplementary planning document (SPD), and to present a revised SPD for comments prior to its adoption by cabinet.

Recommendation

To note the summary of consultation responses and comment on the revised SPD prior to it being reported to cabinet for adoption.

Corporate and service priorities

The report helps to meet the corporate priority a healthy city with good housing.

Financial implications

No direct financial implications.

Ward/s: All Wards

Cabinet member: Councillor Stonard - Sustainable and inclusive growth

Contact officers

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Background documents

None

Report

Introduction

1. Members discussed the draft affordable housing supplementary planning document (SPD) at the last panel meeting on 16th January. Consultation on the draft SPD commenced on Thursday 17th January and ended on Thursday 14th February.

2. This report updates members with feedback on the consultation, and seeks members' comments on a revised SPD which is expected to be reported to cabinet on 13th March.

3. The purpose of the SPD is to supplement Joint Core Strategy policy 4 (housing delivery) and Norwich local plan policy DM33 (planning obligations), with the overall objective of maximising the delivery of affordable housing to meet need in Norwich which is predominantly for affordable rented housing.

Consultation feedback - overview

4. Representations were submitted by18 respondents during the consultation period, including local authorities, developers of student accommodation and specialist accommodation for older people, planning agents, statutory bodies such as Natural England and Historic England, Norfolk Constabulary, housing bodies, a local member, as well as several private individuals. Many of these representations contain multiple responses, resulting in 70 individual issues raised.

5. The representations are set out in summary form at Appendix 1, along with the council's response and any proposed changes. Full copies of the representations are set out on the council's website: https://www.norwich.gov.uk/info/20239/closed_consultations.

6. There are 2 representations specifically of support (rows 2 and 12 of Appendix 1), 5 of objection (rows 9, 11 and 15, 17 and 18), one of no comment (row 6), and one which was a general question judged not applicable (row 1). The remaining 9 representations make a number of comments, many of which are supportive in part but with some seeking clarification and suggesting some changes. It should be noted that 4 out of the 5 representations of objection were submitted by one planning consultant (Lanpro), one on their own account and the others on behalf of different clients.

Substantive issues

7. The most substantive issues raised through the consultation relate to the proposed new local definition of affordable housing to reflect local need, and the proposal to seek affordable housing contributions from proposals for purpose built student accommodation and care homes on sites allocated for residential and residential-led development.

(a) The definition of affordable housing

8. Several representations object to the council departing from the NPPF definition for affordable housing, particularly in relation to the NPPF requirement to encourage 10% or more of houses on major sites to be available for affordable home ownership. As part of this it is argued that, as the Joint Core Strategy is now over 5 years old (since January 2019), it is out-of-date and therefore the NPPF should have primacy over adopted plan policy. Furthermore it is argued that the Strategic Housing Market Assessment (SHMA) has not been tested at public examination and therefore has limited weight. These comments are largely made by Lanpro (see rows 9.1, 11.2, 15.2 and 18.1 in Appendix 1); the Broads Authority (BA) also raises the issue of primacy of the local plan at row 8.6.

9. The council's response is set out most fully at row 9.1, with no change proposed. In summary the publication of the NPPF is not considered to result in either the JCS as a whole or all of policy JCS4 being out of date. Paragraph 73 of the NPPF is clear that where a local plan has been adopted for more than five years the requirement for overall housing supply should be measured against the government's standard methodology and overall need figures in the local plan should be treated as being out of date. However, it does not follow that the remainder of JCS4 which deals with housing mix, affordable housing, housing with care and gypsies and travellers should also be treated as being out of date, especially when the policy remains supported by an up to date evidence base. Case law is clear that adopted development plan retains primacy in these circumstances.

10. In addition several respondents including the BA and Simeon Jackson comment on the proposed definition, for example seeking clarification of how affordable housing will be maintained in perpetuity. The council proposes a change in row 8.7 of Appendix 1 which provides additional clarification about how the requirement for affordable homes to remain in perpetuity will be applied, explaining that subsidy /sale proceeds will be recycled for additional affordable housing provision.

(b) Seeking affordable housing for PBSA and C2 proposals on housing / housing-led allocations

11. There has been a predictable reaction to this proposal on the part of some but not all student operators and care home providers. Lanpro's representation on behalf of SYC Student Accommodation Ltd (see row 11.1 in Appendix 1) is accompanied by a legal opinion from Reuben Taylor QC arguing that the SPD conflicts with adopted policy JCS4 (Affordable Housing) and therefore to adopt it under the 2012 Planning Regulations would be unlawful. Representations also highlight viability impacts of this proposal on purpose-built student accommodation (PBSA) and care home development. It should be noted that there are also a number of representations supportive of this proposal (for example North Norfolk District Council, David Patey and Simeon Jackson).

12. The council's responses to these issues are set out most fully at rows 9.2 and 11.1, with no change proposed. In summary:

- The legal opinion misrepresents the change proposed in the SPD, which does not apply to all proposals for PBSA and care homes, only those on sites allocated in the local plan for housing or housing-led development. The SPD clarifies the council's approach to the interpretation of site allocation policies rather than JCS4 as such.

- Viability tends to be less of a consideration for PBSA and care home development. For example CIL is markedly less for PBSA than for housing generally (£7.10 per square metre as opposed to £106.47 psqm) whereas care home development (C2) is not liable for CIL. However where viability is considered an issue by applicants this can be taken into consideration through the normal viability assessment process.

13. Although the council's response on this further issue, in particular to the submitted legal opinion, is considered robust, legal advice is being sought. It is hoped that this advice will be available in time to inform any report to Cabinet.

Other issues

14. A number of representations raise issues concerning viability considerations, the design of affordable housing particularly for older persons housing, and vacant building credit for example, which are minor in nature. A number of changes are proposed, mainly minor clarifications and edits. The following summary (which is not exhaustive) provides an overview of these issues and some of the proposed changes.

    - Several representations (from Norwich Housing Society and Norwich Older People's Forum) highlight the needs of older persons in relation to affordable housing, and the need some flexibility in relation to the design of affordable housing for older people. Minor changes and clarifications are proposed in paragraphs 2.1 and 2.24 of the SPD, including acknowledgement that an element of flexibility would be appropriate for such housing.

    - Several representations (Simeon Jackson, Green Party) include comments on aspects of viability including the weight to be given to viability assessments (see row 14.6, 14.7 and 16.1 of Appendix 1), land value (14.8, 17.5), landowners' profit (14.9), reasonable profit and risk (14.12, 17.5). Clarification is provided and some minor changes proposed including amending a reference to "landowner" in paragraph 3.3 of the SPD replacing it with "developer".

    - A representation from the Retirement Housing Consortium (row 17.3) states that there is a lack of recognition how older persons' housing differs in viability terms from general needs housing. No change is proposed but clarification is provided that viability considerations can be addressed through the viability assessment process.

    - Vacant building credit (VBC): several representations highlight that there is nothing in planning policy to support the statement in the SPD that "it will not be possible to claim both CIL exemption and VBC consecutively on a single development in Norwich". The council's response at row 9.5 is based

on best practice elsewhere and concludes that it is incongruous to claim VBC and CIL relief at the same time, and therefore no change is proposed.

- A representation from the Retirement Housing Consortium (row 17.4) states that the SPD seeks to expand upon the criteria for vacant building credit as set out in Planning Practice Guidance by not allowing its application on allocated sites. This is not accepted; the PPG is not prescriptive and allows authorities to consider a number of factors. The SPD states that VBC will not apply in a range of circumstances including where a site is allocated for an alternative land use. This is considered reasonable as the council would not wish to incentivise through VBC the development of a site allocated for an alternative use. No change is proposed on this issue.

- Two minor changes are proposed at the end of the table under Officer Comments, for clarification.

Conclusions

15. Although extensive comments were made on the draft SPD from a range of respondents, the overall scale of change is minor, largely comprising a number of clarifications, edits and cross references.

16. The SPD has been updated to incorporate all the proposed changes set out in Appendix 1, and is attached at Appendix 2 for information.

17. The revised SPD will be reported to cabinet on 13 March. The report is expected to be informed not only by the debate at SD Panel but also by any advice received on the issue of seeking affordable housing on PBSA / C2 development on sites allocated for housing and housing-led development. This will enable a decision to be taken on the adoption of the document as supplementary planning guidance.

Appendix 1: Summary of consultation responses

Organisation / individual	Ref	Summary of response	Council response	Proposed change
Soheila Moghtader	1	Where are the affordable houses being built?	Clarification provided that this is not a proposal to build affordable housing in specific locations but is a proposed update to policy guidance relating to affordable housing in Norwich.	No change.
Cllr Kevin Maguire	2	This is an excellent revision of the SPD for affordable housing.	Noted.	No change.
Natural England	3	The topic of the SPD does not appear to relate to NE's interests to any significant extent, so no comment has been provided. However should the plan be amended in a way which significantly affects its impact on the natural environment, then please consult NE again. Also NE notes that strategic environmental assessment (SEA) is only required for SPDs in exceptional circumstances.	Noted. Planning Practice guidance clarifies that supplementary planning documents do not require sustainability appraisal (SA) but may in exceptional circumstances require a strategic environmental assessment (SEA). For clarification, SEA is not required for this SPD as it is not considered to have any significant environmental effects that have not already been assessed in the SA for Norwich's local plan documents.	No change.
Norfolk Constabulary	4	Recommends that the council engages the Secured by Design guidelines with specification, design and build of new homes	Noted. The draft SPD refers to policy which would apply to all proposed development including for affordable housing. The explanatory text for DM3 in the local plan already makes reference to Secured by Design.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
Norfolk County Council	5.1	Location of housing - should there be a comment that the affordable housing should be located in sustainable locations that provide good quality walking and cycling links to local services/facilities?	Policy DM28 (sustainable travel) applies to all development including for affordable housing. For clarification it is proposed to add reference to DM28 to the text relating to relevant local plan policies in paragraph 1.20.	Amend second bullet in paragraph 1.20 to read "Policies DM2 (amenity), DM3 (design) and DM28 (encouraging sustainable travel) apply to all proposed developments."
	5.2	Section 4 Planning Obligations – an additional bullet could be included in paragraph 4.2 setting out that planning obligations will still need to be used to deal with the transfer of land e.g. for a new school.	The list at paragraph 4.2 relates specifically to the wording of policy DM33 (Planning Obligations) which does not include reference to transfer of land. However it would be helpful to make reference in the paragraph to the city council's Regulation 123 list; this includes reference to planning obligations relating to the transfer of land.	Amend second sentence of paragraph 4.2 by adding "(see also the city council's published Regulation 123 list)".
	5.3	The SPD does not raise any significant cross-boundary issues with Norfolk County Council.	Noted.	No change.
Historic England	6	Response states that HE has no specific comments to make.	Noted.	No change.
Norwich Housing Society	7	The Norwich Housing Society supports the overall aims and intentions of the consultation document. However it considers that given the ageing population, the existence of need for affordable housing for older persons should be specifically referenced in the SPD. It also believes that reference should be made to the different	Overall support noted. The SPD refers to housing needs set out in the SHMA which include those for older persons' housing. Change is proposed to paragraph 2.1 to reference paragraph 61 in the NPPF. Agree that the SPD could acknowledge	Add new second sentence in paragraph 2.1: "The NPPF in paragraph 61 clarifies that this includes a range of groups in the community including those who require affordable housing, families with children, older people, students and people with

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		standards and amenity considerations that may be applicable to this type if housing, and the fact that it needs to be considered as a special case in terms of its design and provision.	that design requirements can be different for specialist accommodation for older people. Change proposed.	disabilities." Amend paragraph 2.24 by adding new final sentence: "However it is acknowledged that there may be need for an element of flexibility in relation to the design of affordable housing for older people, for example relating to car parking provision and the even distribution of development."
Broads Authority	8.1	Perhaps the Executive Summary could refer to the relevance of this SPD to the Broads as the main document does in paragraph 1.11.	Agreed.	Add new sentence to end of 5th paragraph of Executive Summary to read: 'The SPD will also apply to housing proposals within the Broads Authority Executive Area of Norwich.'
	8.2	Paragraph 1.5 – could the change to planning obligations and national policy be another factor? That change increased the threshold.	The factors in paragraph 1.5 are not exhaustive, however it would be appropriate to add reference to other factors too.	Amend para 1.5 by adding … ', changes to national policy, and introduction of the Community Infrastructure Levy.'
	8.3	Paragraph 1.8 – it is interesting to know the other ways that affordable housing are being delivered, but this could be read by a developer who may conclude that they don't need to do anything as the City Council and RPs are doing a good enough job. Suggest	Agree it would be useful to reinforce the policy requirements for affordable housing in paragraph 1.8.	Amend first sentence of paragraph 1.8: 'Although this delivery is predominantly on council land, the figures **will** be added to…' Add new third sentence: 'The likely increase in affordable housing

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		adding a statement that says that despite these additional ways of providing affordable housing, developers are still expected to provide affordable housing in line with policy requirements.		delivered through public sector activity, whilst very positive, does not however take away from the need to ensure increased affordable housing delivery on private sector developments, as proposed in this SPD.'
	8.4	Paragraph 1.10 – ideally the SPD would be taken into account when a scheme is being prepared.	Paragraph 1.10 does refer to the SPD being taken into account in preparation of proposals.	No change.
	8.5	Paragraph 1.15 – is it worth being clear to say that because of the then Written Ministerial Statement and now as a result of the NPPF the 5-9 dwelling part of the policy is not in use (if indeed that is the case)?	This is referred to in more detail in paragraphs 2.12 – 2.14. Paragraph 2.14 in particular explains that the current (2015) SPD has a threshold of 10+ units so effectively is not delivering the part of JCS 4 relating to sites of 5 to 9 units.	No change.
	8.6	2.2/1.3 – re adopted policy having primacy over the NPPF. Is there an issue with dates? The JCS is older than the 2018 NPPF.	The JCS is still the adopted plan despite pre-dating the 2018 NPPF. A Supreme Court ruling in 2017 clarified that the NPPF does not displace the primacy of the statutory development plan in respect of non-housing policies when considering planning applications. Also see council response at row 9.1 below.	No change.
	8.7	Paragraph 2.4 – refers to affordable housing being provided and maintained in perpetuity. There are parts of page 13 that imply that those types of affordable housing are not in perpetuity. Is this contradictory or is it	There is reference in the first paragraph of Table 2 (Definition of Affordable Housing) to the subsidy being recycled for alternative provision. Also reference to recycling in the first sentence of paragraph 2.4.	Amend paragraph 2.3 to provide further clarification: 'The council proposes to adopt the following definition of affordable housing with the intention of meeting local

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		worth providing some explanation? For example on page 13 it says that purchasers can staircase to *owning* 100% of the property, discounted market sale housing is *purchased* at a discounted price and Rent to Buy refers to a tenant being able to *buy* the property.		needs in Norwich as defined in the SHMA. The definition is based on the principle that housing is provided at prices below current market rate in perpetuity which people in Norwich are able to afford. Consequently all types of affordable housing must include provisions to remain at an affordable price for future eligible households or for the subsidy/sale proceeds to be recycled to provide alternative housing.' Also amend first sentence of paragraph 2.4 for consistency: "Affordable housing will be expected to be provided and maintained in perpetuity in accordance with JCS policy 4 or for the subsidy/sale proceeds to be recycled for alternative affordable housing provision."
	8.8	3.6 refers to paragraph 34, but paragraph 34 of which document?	This refers to paragraph 34 of the NPPF.	Amend paragraph 3.6, by adding '…of the NPPF' to the end of the second sentence.
	8.9	3.24 onwards – could a review lead to contributions going down?	Planning practice guidance clarifies that review mechanisms are not a tool to protect return to the developer but to strengthen local authorities' ability to seek	No change.

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			compliance with relevant policies, implying that contributions should go up rather than down through viability review.	
	8.10	Section 6 – suggest the examples are put in boxes. It is not clear when the example 3 actually ends – does 6.11 onwards refer to the examples or are they general text?	Paragraph 6.11 relates to example 3. Agree that it would help to put the examples in boxes.	Amend section 6, paragraphs 6.7 – 6.11, by presenting the 3 examples in boxes.
	8.11	Section 6 – is it worth mentioning our likely adopted policy that seeks off-site contributions for schemes of 6-9 dwellings? That is another scenario where off-site contributions may be sought.	A proposed modification to the Broads Local Plan seeks off-site contributions for affordable housing for sites of 6-9 units in accordance with the adopted standards and policies of the relevant District Councils. However the SPD sets out the reasoning behind not seeking contributions from such development (paragraphs 2.12-2.14) including government policy to reduce burdens on small developers and increase delivery of small scale sites, and the evidence that seeking such contributions is unlikely to deliver significant affordable units. This is also the approach in 2015 SPD.	No change.
Lanpro Services Ltd	9.1	Object strongly to the council departing from the NPPF requirement at paragraph 64 and devising its own definition of affordable housing. There is no justification for rewriting the NPPF requirement (paragraph 64) which	Paragraph 64 of the NPPF is not a mandatory requirement in so far that it states that “planning policies and decisions <u>should</u> expect at least 10% of the homes to be available for affordable home ownership” (emphasis added).	No change.

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		clearly seeks to encourage more than 10% of homes to be available for affordable home ownership on a site. Although the development plan has primacy over the NPPF, the Joint Core Strategy is now out-of-date as of 11th January 2019, and the NPPF should have primacy until a new development plan has been adopted. Furthermore the SHMA has not been tested through the development plan process and therefore limited weight should be placed on it. Reference is made to the Blofield Heath appeal where the inspector stated that the SMHA evidence had not been subject of independent examination and is not based on the standard method of assessing local housing need, and found the relevant policies not up-to-date.	Therefore the council is not re-writing the NPPF requirement, rather it is interpreting it in relation to local need. The fact that the JCS is over 5 years old does not mean that it is out-of-date as a whole, or that all of policy JCS is out-of-date. Paragraph 73 of the NPPF states that where a local plan has been adopted for more than five years the requirement for overall housing supply should be measured against the government's standard methodology and overall need figures in the local plan should be treated as being out of date. However, it does not follow that the remainder of JCS4 which deals with housing mix, affordable housing, housing with care and gypsies and travellers should also be treated as being out of date, especially when the policy remains supported by an up-to-date evidence base. The requirements set out in JCS4 relating to affordable housing tenure are supported by the most recent evidence in the 2017 SHMA. The SHMA has been subject to public consultation in 2018 as part of the GNLP Preferred Options consultation, and remains the most up-to-date evidence on housing need. Annex 1 (Implementation) states that	

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			"…existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. The weight to be given to the NPPF and paragraph 64 will be a matter for the city council as decision maker having regard to the relevant policy and evidence base (in this case the most recent SHMA).	
	9.2	Object strongly to new requirement seeking affordable housing for purpose built student accommodation (PBSA) and care homes on sites allocated for residential or residential led development. There is no policy requirement and the JCS is out-of-date. The NPPF does not contain such a requirement and it is unreasonable to require it through a SPD. Such a requirement should be properly examined through the forthcoming local plan process and not included in this SPD, with limited opportunities for interested parties to influence requirements. PBSA and care homes have benefit of reducing pressure on private sector housing. The proposed requirement would place an onerous burden on	As stated in paragraph 2.20, the SPD justifies seeking affordable housing on such sites as they would have delivered affordable housing in accordance with JCS policy 4 if developed for the allocated use. JCS policy 4 is not considered out-of-date because the plan is now over 5 years old, as noted above. Viability tends to be much less of a consideration for PBSA development in particular as evidenced by the great increase in planning applications for this use in recent years. As well as not currently providing any affordable housing, PBSA development also attracts a very low rate of Community Infrastructure Levy (CIL) in comparison with residential development (£7.10 and £106.47 per square metre respectively), whilst C2	No change.

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		developers and viability implications have not been properly examined. This is particularly onerous where planning applications are already being considered on such sites.	development does not pay any CIL. However where applicants consider that there is a viability issue for particular developments, this can be taken into consideration through the normal viability assessment process. In any case it is not proposed to change the types of development to which JCS4 applies as such, but rather to clarify the approach to be taken where there is a conflict with site allocations for housing and where an element of affordable housing would have been expected.	
	9.3	Object to proposed formula for calculating affordable housing requirements on individual sites, which seems to result in a requirement for more affordable housing than the allocation envisaged. Specific examples are provided at the former Start-rite Shoe Factory on Mousehold Lane, and land at Queens Road and Surrey Street. These developments are already proposing significant benefits.	Paragraph 2.19 provides an example of how affordable housing contribution would be calculated for PBSA or care home development on sites allocated for housing or residential led development. The formula proposed is the one used by government in the Housing Delivery Test rulebook as set out in footnote 3. The formula will only result in more affordable housing provision than the original allocation if the proposed PBSA / care home is of a sufficient scale to trigger this.	No change.

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	9.4	Object to paragraph 2.28 (application requirements) which is considered unreasonable because it forces developers to provide full applications by the back door.	The revised SPD does not force developers to bring forward full applications by the back door. The weight given to outline proposals with very little detail has not changed since the 2015 SPD; as viability assessments for such proposal do not contain sufficient information to make a judgement about viability, they can be afforded little weight in the decision-making process. There is nothing to prevent outline proposals to continue to come forward on that basis. What has changed is in the draft 2019 SPD is the proposal that weight will be given to those outline applications which do include matters of design, layout, scale and external appearance.	
	9.5	Object strongly to paragraph 2.36 (vacant building credit) – there is nothing in national planning policy or guidance that supports the statement that "…it will not be possible to claim both CIL exemption and Vacant Building Credit consecutively on a single development in Norwich."	In the absence of a definition of a 'vacant building' within the NPPF paragraph 63 and PPG paragraphs 021-023, reference to the CIL regulations in the definition of what constitutes vacant has been used by a number of other Local Authorities (including Mid-Sussex, Suffolk Coastal and Waveney, Bath & North East Somerset, and South Gloucestershire Councils - for example) CIL is charged to provide money for infrastructure. The charges are paid per m² of net new floorspace, whereby an existing building in lawful use is subtracted	No change.

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			from the total charge. This recognises the existing impact of the lawful use and therefore the need only to mitigate the impact of the additional, new use. Where that existing lawful use has ceased, i.e. where it has not been in use for a continuous period of at least six months in the preceding three years, then the charge becomes liable on the gross floorspace, with no deduction of existing floorspace. The Written Ministerial Statement 2014 which introduced Vacant Building Credit states the intention of credit is "…*to boost development on brownfield land and provide consistency with exemptions from the Community Infrastructure Levy".* According to PPG Planning Obligations paragraph 022 Reference ID:23b-022-20160519 (Rev. 19/05/2016) The Vacant Building Credit applies "…*where a vacant building is brought back into lawful use, or is demolished to be replaced by a new building,…"* It is therefore considered incongruous to claim that a building is vacant in order to claim Vacant Building Credit at the same time as claiming a building is in use to claim CIL relief on existing floorspace.	

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			CIL regulations 2010 (as amended) do not provide relief to vacant buildings.	
North Norfolk District Council	10.1	Paragraph 2.4 (NPPF requirement in paragraph 64 for at least10% of units for affordable home ownership): potential to capitalise on NPPF definition of at least 20% below market value and align this with local levels of affordability?	The approach taken in the SPD definition is focussed on meeting the need in the SHMA which is predominantly for affordable rented housing. The suggested approach would not achieve this.	No change.
	10.2	Paragraphs 2.16 - 2.21: Supports requirement to seek affordable housing contributions from both C2 and PBSA. Careful consideration should be given to ensure that the affordable housing requirements do not impact on the C2 requirement as set out in the SHMA.	For clarification, the SHMA does not include a requirement figure for C2 housing. A requirement for C2 housing is set out in Norfolk County Council's Living Well strategy for extra care housing. Viability of C2 proposals on sites allocated for residential or residential led development can be addressed through a process of viability appraisal where appropriate.	No change.
	10.3	Paragraphs 2.27 – 2.30: NNDC support the application requirements set out here. However this could be strengthened to emphasise that all proposals should be fully policy compliant unless it can be demonstrated through a full viability assessment that this is not possible.	Agree this would be a useful clarification. Change proposed.	Add new para 2.27 at start of this section: "All development proposals should be fully policy compliant unless it can be demonstrated through a full viability assessment that this is not possible."
	10.4	Paragraph 2.29: clarify here that the price paid for land is not a relevant justification for failing to accord with relevant plan policies (as already stated in 3.15)	Agree this is appropriate. Change proposed.	Amend paragraph 2.29 by adding a new sentence prior to the final sentence: " As noted in paragraph 3.15, planning practice guidance clarifies that the price paid for

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				land is not a relevant justification for failing to accord with relevant plan policies."
	10.5	Paragraphs 2.31- 2.32: NNDC supports the approach taken to the subdivision of large sites.	Noted.	No change.
Lanpro on behalf of SYC Student Accommodation Ltd.	11.1	Object strongly. The adoption of the draft SPD in its current form so as to require sites for student accommodation to make a contribution towards affordable housing would be unlawful. The objection is based on a legal opinion from Reuben Taylor QC of Landmark Chamber summarised as follows: • Regulation 8(3) of the 2012 Town and Country Planning Regulations state that any policies in a SPD must not conflict with the adopted development plan. • Policy JCS4 does not apply to sites where student accommodation is proposed given that it is in a different use class from general market housing. The approach enshrined in JCS4 is that no affordable housing is to be sought from student	The objection and comments from Reuben Taylor QC misrepresent the change proposed within the SPD. In no way does the proposed change in the SPD generally seek to widen the uses to which affordable housing applies. Contrary to the QC comments JCS4 does not specifically state that it does not apply to PBSA or C2 uses. It does however apply to housing and therefore housing allocations. The approach in the SPD is <u>not</u> that it is proposed to apply affordable housing policies to all PBSA and C2 proposals. Indeed if that were the case the QC comments may be arguable. So far as this matter is concerned the SPD clarifies the Council's approach to the interpretation of site allocation policies rather than JCS4 as such. Affordable housing is only sought for PBSA and C2 on sites allocated for housing where it is reasonable to assume that an element of affordable housing would normally be expected. In no way therefore does the	No change.

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		accommodation schemes. • Therefore the SPD conflicts with policy JCS3. The SPD cannot be used to broaden the application of the policy to sites that its wording does not currently embrace, and cannot be lawfully used to create a policy basis for requiring payment of an affordable housing contribution where there currently is none. As a result the draft SPD cannot be adopted as proposed as this would be contrary to Reg 8(3) of the 2012 Regulations.	SPD conflict with the adopted development plan. It does however make clear the council's approach where there is a conflict with site allocation policies due to other forms of accommodation being proposed.	
	11.2	There is no justification for rewriting the NPPF requirement in paragraph 64 requiring at least 10% of housing on major sites for affordable home ownership. The development plan no longer has primacy as the Joint Core Strategy is out of date. Furthermore the SHMA which is used for the basis for seeking a different mix of affordable housing types has not been tested through the Development Plan process.	See council's response at row 9.1 above.	No change.

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	11.3	Object strongly to the new requirement set out within the SPD for student accommodation and care home schemes on sites allocated for residential and residential led development to make affordable housing provision.	See council's response at row 9.2 above.	No change.
	11.4	Object to the proposed formula for calculating affordable housing requirements for individual sites which seems to result in a requirement for more affordable housing to be provided than the assumed by the site allocations.	See council's response at row 9.3 above.	No change.
David Patey, Director Heathfield (Norwich) Ltd	12.1	Supports the proposal to treat purpose-built student housing on a par with other forms of housing, and to seek affordable housing as part of such developments. Failure to do so unbalances the playing field by artificially making PBSA a more attractive proposition than other housing types to a developer. This more attractive financial model does not usually feed through into more affordable rents for student occupiers.	Noted.	No change.
	12.2	The National Union of Students regards student accommodation as affordable if it costs less than 50% of the maximum student support available: in the current academic year that means a rent of no more than	Noted.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		£4,350.		
Mary Ledgard, Chair, Norwich Older People's Forum	13.1	The application of the SPD is as important as the document itself. While we understand the need for flexibility and the concept of viability assessments, we believe that it is important to maximize the number of affordable housing units built in Norwich. We are concerned that not providing affordable housing in the Anglia Square and, we understand, the St Mary's Works developments should not set a precedent.	Noted. The overall aim of the SPD is to maximise delivery of affordable housing in Norwich whilst addressing viability considerations.	No change.
	13.2	We agree that affordable housing should cater for all sectors of the community. We feel that it is important that the needs of older people and those affected by the "bedroom tax" should be taken into consideration. We understand that the NPPF is a guidance document only and should not be treated as a statute but it is important that Norwich creates places that are "safe, inclusive and accessible" (NPPF 127f) and ideally adheres to the Government's optional standards for accessible and adaptable homes for at least some of the properties.	Noted. See proposed changes at row 7 above. The NPPF will continue to be a key material consideration in both plan making and decision-making. The reference to its status in 1.13 is pertinent to the definition of affordable housing in the NPPF and in particular to the requirement for 10% of units on major sites to be affordable home ownership.	No change.
Simeon	14.1	Notes the shocking decline in the	Noted.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
Jackson		amount of affordable housing delivered in Norwich since the publication of the NPPF in 2012. Whilst the City Council should be applauded for its direct delivery of affordable housing, the obligation of developers to contribute is being eroded by insufficiently robust policy at both a national and local level. Further clarification needed in Introduction about poor delivery in the past. Also need to state the extent to which the council hopes affordable housing will be delivered by it directly and through planning obligations.	The purpose of the Introductory section is to provide an overview of affordable housing delivery, providing figures back to 2008/09. It is difficult to predict the extent of future delivery by the council and private developer with any accuracy. Reference to Anglia Square in paragraph 1.8 is included as an example of current private sector proposals. The intention of paragraphs 1.6 – 1.8 is to give a flavour of the contribution that has been, and is anticipated will be made, by the council as this is obviously an important component of delivery. Please also note proposed change at row 8.3 above.	
	14.2	The definition of affordable housing in Table 2 does not state how some of the intermediate housing options would remain affordable in perpetuity. This should be within the definition in order to be robust.	Not accepted. In addition to reference within the first paragraph of the definition in Table 2, the SPD also refers to this in paragraphs 2.3 and 2.5. Further clarification is provided in the proposed changes to these paragraphs set out at row 8.7 above.	No change.
	14.3	Paragraph 2.18 refers to timescale of GNLP – put in Introduction instead.	Not accepted. This paragraph refers to emerging policy on purpose built student accommodation so reference to the GNLP timescale is appropriate here.	No change.
	14.4	Seeking affordable housing on residential allocations is a really positive addition to the SPD, particularly in relation to PBSA.	Noted.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
	14.5	The document does not provide a process to ensure a mix of affordable tenures (paragraph 2.23) or a method of making sure that the development is as attractive as possible to Registered Providers (paragraph 2.26). It is counter-productive to require no distinction between affordable and market units (para 2.24).	The methodology set out in paragraph 2.23 is considered to be appropriate, involving early discussions with RPs who will advise on their requirements.	No change.
	14.6	Paragraph 2.28 (application requirements) is vague and contradictory in relation to weight to be given to viability assessments. Potential for alternative wording to aid clarity.	It is not accepted that 2.28 is contradictory. This paragraph specifies the approach to the weight to be given to viability assessments for outline applications.	No change.
	14.7	The document states that the weight given to a Viability Assessment is a matter for the decision maker (paragraph 3.1) but fails to specify under what circumstances a Viability Assessment may or may not be given weight.	Not accepted. It is not possible to specify the weight to be given to viability assessments in all cases as this will depend on the merits of individual cases. However, as noted above, paragraph 2.28 provides advice about the weight to be given to outline applications, as does paragraph 2.29 in relation to viability assessments where the applicant is not proposing to deliver the scheme.	No change.
	14.8	Paragraph 2.29 should be irrelevant as land value cannot reflect the amount paid for the land.	The issue of land value is acknowledged in paragraph 3.15 of the SPD. The purpose of paragraph 2.29 is to incentivise delivery of housing including affordable housing, by giving limited weight to viability assessments where the applicant	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
			is not proposing to deliver the scheme. Whilst it is correct that the price paid for land is irrelevant it does not stop developers overpaying and, where they do, this can lead to an impasse when considering viability and therefore non-delivery of sites. The suggested approach looks to stop land owners gaining consents with reduced land affordable housing contributions and then selling on at over-inflated land values leading to non-delivery.	
	14.9	There are a number of references to "land-owners" profit (paragraphs 3.3 and 3.5), which are contrary to the NPPG, as these should instead be referring to the developer's profit. The NPPG states that the land-owner's incentive to make the land available for development should be factored in within the value of the land.	Agree some clarification is required. Changes proposed.	Amend paragraph 3.3 by replacing "landowner" with "developer". Amend paragraph 3.5 second sentence, final clause: "…to render the site viable and incentivise the development."
	14.10	Paragraph 3.12 is contradictory by stating that assessments should follow the PPG but that the council also wants to adopt alternative approaches to land value and reasonable profit.	Accept that this appears contradictory as written. Change proposed.	Amend paragraph 3.12 to read: "Paragraphs 3.13 – 3.18 below clarify how the local planning authority will assess land value uplift and reasonable profit for planning applications in Norwich."
	14.11	There is no guidance on who is responsible for developing the plan-making stage viability assessment	Guidance is provided in PPG for plan-makers. Change proposed for clarification.	Amend paragraph 3.6 to include the following text at the end of the final sentence:

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		(paragraph 3.6).		"…(guidance is provided in Planning Practice Guidance on Viability)."
	14.12	There is no real acknowledgement that the acceptable level of profit for both land-owner and developer should be based on risk, not arbitrary percentages (paragraphs 3.14, 3.16 and 3.18). This document should set out a framework to assess whether the level of profit is reasonable, based on the risks inherent within the site. Contingency should be set at 0% by default.	The range of reasonable profit to the developer proposed in the SPD does inherently acknowledge different levels of risk – see paragraph 3.17. In relation to contingency, the council benchmarks construction costs based on a standard development; it is reasonable that a contingency allowance is included for abnormal unforeseen circumstances depending upon the risk of the development. This is the industry standard approach.	No change.
	14.13	The document also does not state whether or not the viability assessment should take into account the risk of planning refusal. This is particularly relevant to reserved matters stage (3.29), where the risks to the developer will be substantially lower due to already having permission in principle.	Not accepted. This is not a relevant risk item to be taken account of in the viability assessment.	No change.
	14.14	Review of viability at reserved matters stage may lead to reduced profit.	See council response at row 8.9 above.	No change.
Lanpro on behalf of Boudica Developments Ltd	15.1	Object strongly to new requirement seeking affordable housing for purpose built student accommodation (PBSA) and care homes on sites allocated for residential or residential led development. There is no policy	Not accepted. See council's responses at rows 9.2 and 11.1 above.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		requirement and the JCS is out-of-date. The NPPF does not contain such a requirement and it is unreasonable to require it through a SPD. Such a requirement should be properly examined through the forthcoming local plan process and not included in this SPD, with limited opportunities for interested parties to influence requirements. PBSA and care homes have benefit of reducing pressure on private sector housing. The proposed requirement would place an onerous burden on developers and viability implications have not been properly examined. This is particularly onerous where planning applications are already being considered on such sites.		
	15.2	Object strongly to the council departing from the NPPF requirement at paragraph 64 and devising its own definition of affordable housing. There is no justification for rewriting the NPPF requirement (paragraph 64) which clearly seeks to encourage more than 10% of homes to be available for affordable home ownership on a site. Although the development plan has primacy over the NPPF, the Joint Core Strategy is now out-of-date as of 11th January 2019, and the NPPF should	Not accepted. See council's response at row 9.1 above.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		have primacy until a new development plan has been adopted. Furthermore the SHMA has not been tested through the development plan process and therefore limited weight should be placed on it. Reference is made to the Blofield Heath appeal where the inspector stated that the SMHA evidence had not been subject of independent examination and is not based on the standard method of assessing local housing need, and found the relevant policies not up-to-date.		
	15.3	Application requirements: Object to paragraph 2.28 (application requirements) which is considered unreasonable because it forces developers to provide full applications by the back door.	Not accepted. See council's response at row 9.4 above.	No change.
	15.4	Vacant building credit: Object strongly to paragraph 2.36 (vacant building credit) – there is nothing in national planning policy or guidance that supports the statement that "…it will not be possible to claim both CIL exemption and Vacant Building Credit consecutively on a single development in Norwich."	See council's response at 9.5.	No change.
Green Party	16.1	Viability assessment should only be used when it is necessary for the	Noted. The SPD reflects the statement in the NPPF / PPG that the weight to be	No change

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		council's policies to be achieved, not produced for developers to enlarge their profits.	given to a viability assessment is a matter for the decision maker (see paragraph 3.1 for example).	
	16.2	The range of homes to meet the needs of future generations will need to acknowledge the impact of climate change.	Noted. This is a matter dealt with in current local plan policy and will be addressed in the emerging GNLP.	No change.
	16.3	More detail needed explaining how dwellings can be kept available for rent, and how more intermediate housing will be made available over the long term and not lost to local supply.	Noted. This is addressed in response to earlier comments. Please see proposed change at row 8.7.	No change.
	16.4	Pleased to see the affordable housing contribution for purpose built student housing.	Noted.	No change.
	16.5	If viability assessment is carried out at plan making stage it should not be revisited.	National policy and guidance allow for viability assessment at a later stage and clarifies that the weight to be given to viability assessment is a matter for the decision maker.	No change.
Retirement Housing Consortium (representing Renaissance Retirement, Pegasus Life, McCarthy and Stone, and Churchill Retirement Living)	17.1	Application of policy to C2 uses: • Inappropriate to apply generic affordable housing policy to C2 residential uses (has been established at appeal) • This has not been set out in local plan policy and it is inappropriate to introduce this through SPD rather than the local plan examination process. • JCS4 is based on a 2010 viability study which fails to test viability of retirement housing typologies. The	The intention is not to require affordable housing contributions from all C2 proposals across the board but only where these are on residential or residential led local plan allocations. As stated in para 2.20 the SPD justifies affordable housing provision on such sites as they would have delivered affordable housing if developed for their allocated use. See council's responses at rows 9.2 and 11.1 above.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		council cannot suggest that the policy will not have a negative impact on C2 housing. • SPD should be amended to remove this requirement due to the characteristics and costs of providing such facilities.		
	17.2	Principle of off-site contributions: Cash in lieu payments to address affordable housing is the most equitable solution to addressing AH requirements for specialist housing for older people. There should be recognition of its unique characteristics in the SPD. Flexibility should be provided for specialist housing for older people to ensure that providers of such housing will be assured of sufficient flexibility in the affordable housing policy.	Noted. The SPD allows for commuted sums to address affordable housing provision.	No change.
	17.3	Viability evidence base: the viability analysis supporting the affordable housing policy locally fails to adequately test typologies for specialist housing for older people. There is a lack of recognition how such proposals differ in viability terms from general needs housing. The SPD should be amended to ensure there is such recognition.	The viability of proposals for C2 development on residential or residential led allocations can be addressed through the viability assessment process.	No change.
	17.4	Vacant building credit: the SPD seeks	Not accepted. The PPG is not prescriptive	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		to expand upon the criteria for VBC by not allowing its application on allocated sites. This is not in line with the guidance in PPG which states that the credit should not apply to buildings that have been abandoned.	and allows authorities to consider a number of factors. The SPD states that VBC will not apply in a range of circumstances including where a site is allocated for an alternative land use to what is proposed. This is considered reasonable as the council would not wish to incentivise, through VBC, the development of a site allocated for an alternative use.	
	17.5	Viability assessment: • in relation to land value the SPD should acknowledge that every site should be assessed on its own merits and that alternative use values may be relevant as well as existing use value. • It is inappropriate limit profit assumptions to 15-17.5% of GDV. This contradicts paragraph 3.16. This needs to acknowledge that specialist housing proposals for older people are riskier developments for a number of reasons including restricted occupancy, slow sales rates and a very slow payback period. • Review mechanisms should not be introduced through SPD and should be established through the local plan process as required by PPG para 09	The approach taken in the SPD to calculating the land value (existing use value plus) reflects the Planning Practice Guidance. Any risks associated with specialist older peoples housing, and how this relates to reasonable profit, can be addressed through the viability assessment process. It is appropriate to include review mechanisms in SPD (PPG 009 does not preclude this) - the current 2015 SPD for affordable housing already includes a affordable housing viability review clause.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
	17.6	Commuted sums: blind application of Appendix 3 commuted sum figures is likely to make many proposals unviable.	The viability of proposals for C2 development on residential or residential led allocations can be addressed through the viability assessment process as appropriate.	No change.
Lanpro on behalf of Hopkins Homes	18.1	There is no justification for rewriting or varying the NPPF approach in paragraph 64 which clearly seeks to encourage more than 10% affordable home ownership. Although the development plan has primacy over the NPPF, the JCS is out of date and therefore the NPPF requirement should have primacy until a new development plan policy has been adopted. Furthermore the SHMA has not been tested through the development plan process and therefore limited weight should be placed on it. Reference is made to recent appeal decisions including the Blofield Heath appeal where the inspector stated that the SMHA evidence had not been subject to independent examination and is not based on the standard method of assessing local housing need, and found the relevant policies not up-to-date.	Not accepted. See response set out at row 9.1 above.	No change.
	18.2	Application requirements: Object to paragraph 2.28 (application requirements) which is considered unreasonable because it forces	Not accepted. See response at row 9.4 above.	No change.

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		developers to provide full applications by the back door.		
	18.3	Vacant building credit: Object strongly to paragraph 2.36 (vacant building credit) – there is nothing in national planning policy or guidance that supports the statement that "…it will not be possible to claim both CIL exemption and Vacant Building Credit consecutively on a single development in Norwich."	See Council's response at row 9.5 above.	No change.
OFFICER CHANGES				
Paragraph 2.25	1	Clarification required in relation to the technical standards referenced in paragraph 2.25, to be consistent with policy DM12 criterion (f).	Change proposed.	Amend first sentence of paragraph 2.25 to read: "It is expected that a proportion of affordable units will be built in accordance with technical standards level 2 as set out in Approved Document M of the Building Regulations, in line with the requirement in policy DM12. This is broadly equivalent to the Lifetime Homes Standard..."
Paragraph 2.37	2	Paragraph 2.37 as written means that an application for housing-related development on a site allocated for housing but currently in an alternative use, would need to be actively marketed for the existing use prior to submission of a planning application. This is not the intention of the paragraph and should be amended /	Change proposed.	Amend second sentence of paragraph 2.37 to read: "Unless the site is already allocated for housing, an application for vacant building credit…."

Organisation / individual	Ref	Summary of response	Council response	Proposed change
		clarified.		

Appendix 2

Affordable housing supplementary planning document (2019)~~: draft for consultation~~



This document supplements *Joint core strategy* policy 4 and *Norwich local plan* policy DM33

Cover photograph

Goldsmith Street development by Norwich City Council: 93 units of social housing for completion in 2019.

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EXECUTIVE SUMMARY

The purpose of this draft supplementary planning document (SPD) is to increase the delivery of affordable housing in Norwich.

There is currently a lack of affordable housing to meet needs in Norwich. Evidence in the 2017 Central Norfolk Strategic Housing Market Assessment (SHMA) shows that 38% of households in Norwich are in need of affordable housing over the period to 2036. The predominant need is for affordable rented accommodation.

The lack of affordable housing forces those in need of housing to rely on the private rented sector. This is often expensive and inadequate in terms of housing conditions and there is evidence that more vulnerable people are prone to exploitation by some landlords.

However delivery of affordable housing through the application of planning policies is only part of the solution. The city council is taking a proactive approach to delivery of affordable housing to meet local needs by working with Registered Providers, working with Norwich Regeneration Limited on a range of sites, and by direct delivery on its own land.

Since the 2015 SPD was adopted the government has published a new National Planning Policy Framework ('NPPF' 2018) and local evidence on housing need has been updated in the 2017 SHMA. The SPD has therefore been reviewed to ensure that it complies with relevant national planning policy and guidance and adopted local plan policy. The revised SPD will replace the previous adopted SPD (2015) and supplements Joint Core Strategy policy 4 and Norwich Local Plan policy DM33. The SPD will also apply to housing proposals within the Broads Authority Executive Area of Norwich.

Key aspects of the revised draft SPD include the following:

- A local definition of affordable housing is proposed to meet the identified needs in Norwich.
- Affordable housing will be required on sites of 10 or more residential units.
- Affordable housing will be sought for development proposals for care homes and purpose built student accommodation on residential or residential-led local plan allocations via a commuted sum.
- The SPD provides guidance on on-site provision, and when it is appropriate to seek commuted sums for off-site provision.
- Development viability is a material consideration. The SPD provides guidance on viability assessment and publication of viability information in order to better inform developers of the council's expectations and ease the planning application process.
- The SPD includes measures, including an affordable viability review clause, to incentivise development and promote housing delivery.

~~A period of consultation on the draft SPD will take place between 17 January and 13 February 2019. The document provides details about how you can comment on the~~

~~consultation draft SPD. It is anticipated that the final SPD will be adopted by the council in March 2019.~~

1. INTRODUCTION

Background

1.1 The current Affordable Housing Supplementary Planning Document (SPD) was published in 2015 following the adoption of Norwich's Development Management Policies Plan and Site Allocations and Site Specific Policies Plan in December 2014. There is now a need to revise the SPD in the light of the 2018 National Planning Policy Framework (NPPF) and local evidence.

1.2 Access to affordable housing is increasingly an issue of concern, both nationally and locally. Recent evidence (the Central Norfolk Strategic Housing Market Assessment 2017 – the 'SHMA') identifies a shortfall in the supply of affordable housing to meet objectively assessed needs, with the greatest need being for affordable rented homes (84%) and to a lesser extent (16%) for intermediate tenures. It identifies that 278 units of affordable housing are required to be delivered annually to meet needs in Norwich (or 5,828 units in total) over the period to 2036.

1.3 Delivery of both affordable and market housing in Norwich has fluctuated since the start of the local plan period (2008) as shown in the table below. The housing market was more buoyant in the early part of the plan period but in recent years there has been a reduction in the level of affordable housing provided.

Table 1: Delivery of market and affordable housing since 2008[1].

Year	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Affordable Housing Completions	**235**	**92**	**112**	**171**	**145**	**32**	**50**	**25**	**44**
Total Housing Completions	**527**	**399**	**377**	**280**	**377**	**210**	**249**	**365 (482)**	**445 (650)**
Percentage	**45%**	**23%**	**30%**	**61%**	**38%**	**15%**	**20%**	**7% (5%)**	**10% (7%)**

[1] Source: Annual Monitoring Report for Broadland, Norwich and South Norfolk 2016-17 (latest published figures). Figures in brackets include the allowance for student and other communal accommodation which can now be counted towards housing delivery.

1.4 Analysis of the latter part of this period (2011/12 to 2016/17) shows that an annual average of 78 units of affordable housing was delivered, representing 24% of total housing delivery.

1.5 The lower rates of affordable housing in recent years can be attributed to a number of factors including wider economic conditions and impacts on development viability, changes to national policy, and introduction of the Community Infrastructure Levy~~.~~.

1.6 However throughout the whole of the plan period Norwich City Council has pro-actively contributed to the delivery of affordable housing through releasing land to registered providers and more recently through direct delivery. Less than 30% of affordable housing completions delivered between 2011/12 and 2016/17 were on private development sites through S106 agreements, with the remaining approximately 70% either delivered on council land, by the council itself or in partnership with a Registered Provider (RP), or by RPs.

1.7 In the coming years it is anticipated that council involvement in the delivery of affordable housing will have a significant part to play. In 2018/19 it is anticipated that approximately 175 affordable dwellings will be delivered either through direct delivery or by a Registered Provider on council land (including the delivery of 93 dwellings for social rent on Goldsmith Street), and delivery of approximately 100 units of affordable housing is anticipated in 2019/20.

1.8 Although this delivery is predominantly on council land, the figures ~~are likely to~~will be added to by affordable housing from private sector development, potentially including Anglia Square. In addition, the Government recently lifted the cap on Housing Revenue Account (HRA) borrowing which should help boost delivery of affordable housing. The likely increase in affordable housing delivered through public sector activity, whilst very positive, does not however take away from the need to ensure increased affordable housing delivery on private sector developments, as proposed in this SPD.

Scope and status of this supplementary planning document (SPD)

1.9 This draft SPD provides detailed guidance on how policy 4 of the Greater Norwich Joint Core Strategy (JCS) and policy DM33 of Norwich's Development Management Policies Plan should be interpreted and implemented in order to support proposed development and help deliver sustainable communities.

1.10 The draft SPD will be subject to consultation, review of feedback and then formal adoption by the council. Once adopted it will be a material consideration in the determination of planning applications. It should be taken into account in the preparation of planning proposals for residential, mixed use, C2, C4 and residential sui generis development from the pre-application stage on, and while negotiating and undertaking development feasibility.

1.11 This SPD will also apply to housing proposals within the Broads Authority Executive Area of Norwich. The Broads Authority does not have a strategic housing function; this is undertaken by Norwich City Council for the part of the Broads Authority in Norwich. Policy DM34 of the adopted Broads Authority Local Plan for the Broads states that the Broads Authority applies the policies of its constituent district councils (in both Norfolk and Suffolk) regarding affordable housing.

Legislative and policy context

1.12 The Government published the revised National Planning Policy Framework (NPPF) and accompanying Planning Practice Guidance (PPG) in July 2018. This requires local authorities to 'deliver a sufficient number and range of homes to meet the needs of present and future generations. Relevant sections of the 2018 NPPF relating to affordable housing provision include the following:

- Plans should set out the contributions expected from new development, including setting out the levels and types of affordable housing provision required. Such policies should not undermine the viability of the plan. (NPPF paragraph 34)

- Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure or affordable housing, the greater the benefits. (NPPF paragraphs 40-41)

- Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. The weight to be given to a viability assessment is a matter for the decision maker having regard to all circumstances in the case including whether the plan and evidence underpinning it is up to date, and any change in site circumstances since the plan was adopted. (NPPF paragraph 57)

- All viability assessments should reflect the recommended approach set out in national planning guidance, include standardised inputs (such as land value and developer profit), and should be made publicly available. (NPPF paragraph 57)

- The size, type and tenure of homes required for different groups in the community (including but not limited to, those who require affordable housing) should be assessed and reflected in planning policies. (NPPF paragraph 61)

- Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site, unless:
    - off-site provision or an appropriate financial contribution of broadly equivalent value can be robustly justified (for example, to improve or make more effective use of the existing housing stock) and
    - the agreed approach contributes to the objective of creating mixed and balanced communities. (NPPF paragraph 62)

- Provision of affordable housing should not be sought for residential developments that are not major[2] developments. (NPPF paragraph 63)

- To support the re-use of brownfield land, where vacant buildings are being re-used or redeveloped, any affordable housing contribution should be reduced by a proportionate amount. (NPPF paragraph 63 and Planning Practice Guidance)

- Where major housing development is proposed, planning policies and decisions should expect at least 10% of homes to be available for affordable home ownership, subject to some exemptions, or where this would significantly prejudice the ability to meet identified affordable housing needs of specific groups. (NPPF paragraph 64)

- A revised, broader, definition of affordable housing now includes affordable home ownership, including starter homes. (NPPF glossary)

- The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. This is a key aspect of sustainable development, and helps make development acceptable to communities. (NPPF paragraph 124)

1.13 The NPPF's legal status has been clarified in a recent Supreme Court decision (10 May 2017). This states that the NPPF is a guidance document only, and should not be treated "as if it were a statute". Its purpose is to "express general principles on which decision-makers are to proceed in pursuit of sustainable development ". As a guidance document its weight constitutes a material consideration and "it cannot, and does not, purport to displace the primacy given by the statute and policy to the statutory development plan".

Local policy context

1.14 The local plan for Norwich consists of the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS), the Site allocations and site specifics policies local plan (the Site allocations plan), the Development management policies

[2] Defined in the NPPF 2018 as sites where 10+ units are proposed, or sites of 0.5 hectares or more.

local plan (the DM policies plan) and the Policies Map. Work is underway on the Greater Norwich Local Plan (GNLP) which will provide strategic planning policies and make site specific allocations. It is supported by a range of evidence documents including a Strategic Housing Market Assessment (SHMA), most recently updated in 2017.

1.15 Policy 4 of the JCS (see Appendix 1) seeks to achieve the following proportion of affordable housing on sites of 5 or more dwellings:

- on sites of 5-9 dwellings (or 0.2-0.4ha), 20% with tenure to be agreed on a site by site basis (numbers rounded upwards from 0.5) (please refer to paragraph 5 & 44 of this document);
- on sites for 10-15 dwellings (or 0.4-0.6ha), 30% with tenure to be agreed on a site by site basis (numbers rounded upwards from 0.5), and;
- on sites of 16 dwellings or more (or over 0.6ha) 33% with approximate 85% social rented and 15% intermediate tenures (numbers rounded upwards from 0.5).

1.16 The policy also states that the proportion of affordable housing may be reduced, and the balance of tenures amended, where it can be demonstrated that the site is unviable in prevailing market conditions.

1.17 The appropriate mix of tenures is also set out in JCS policy 4. For sites of 10-15 dwellings, tenure is to be agreed on a site by site basis. On sites of 16 or more dwellings a split of 85% social rented and 15% intermediate tenures is advocated. However, in accordance with JCS policy 4, this can be negotiated in exceptional circumstances and/or where certain tenures are not appropriate in specific areas of the city. This will also be informed by the latest Strategic Housing Market Assessment (currently the 2017 SHMA update).

1.18 The requirement for affordable housing provision applies to all C3 dwellings, C4 dwellings and sui generis dwellings (eg HMOs), irrespective of tenure or ownership model. Affordable housing will also be sought for development proposals for care homes and purpose built student accommodation on residential or residential-led local plan allocations via a commuted sum.

1.19 Provision of affordable housing on-site is the city council's preferred approach, and is also the preference set out in government guidance. This promotes social inclusion and the design of individual sites should take account of this objective. Details are set out in subsequent sections of this document of the circumstances where the city council would accept a contribution in lieu of on-site provision.

1.20 Other relevant local plan policies include:

- DM33 (planning obligations – see Appendix 2) sets out principles for delivery of essential infrastructure which will be secured via a site

specific planning obligation, including delivery of affordable housing. In cases where it can be demonstrated that the impact of the Community Infrastructure Levy (CIL), planning obligations and abnormal development costs make a development scheme unviable, the policy allows for negotiation of specific policy requirements to be reduced to make the scheme viable and deliverable.

- Policies DM2 (amenity) ~~and~~, DM3 (design), and DM28 (encouraging sustainable travel) apply to all proposed developments.
- DM12 sets out principles for all residential development) and supplements the general design principles set out in policy DM3. It applies to all forms of housing development including market and affordable housing, houses in multiple occupation (HMOs), residential institutions, and student accommodation.

2. DELIVERING AFFORDABLE HOUSING

2.1 Providing the amount and type of housing that meets the needs of all sectors of the community is a key objective of the Joint core strategy and the Norwich local plan documents. The NPPF in paragraph 61 clarifies that this includes a range of groups in the community including those who require affordable housing, families with children, older people, students and people with disabilities. This section of the SPD provides guidance on a number of issues including the definition of what constitutes affordable housing, the appropriate tenure mix, the type of development for which affordable housing will be sought, affordable housing design, and planning application requirements.

Definition of affordable housing

2.2 The definition of affordable housing in the 2018 NPPF places much greater emphasis on affordable home ownership rather than affordable housing for rent, as compared with the definition in the 2012 NPPF. The 2018 NPPF requirement for 10% of units on major sites to be affordable home ownership would, if applied to Norwich, reduce the level of affordable rented housing that could be achieved on development schemes, and would not meet local need as defined in both the JCS policy 4 and SHMA (referred to in section 1). As referred to in paragraph 1.13, adopted policy has primacy over the NPPF and informs the definition of what is considered 'affordable housing' in Norwich.

2.3 The council proposes to adopt the following definition of affordable housing with the intention of meeting local needs in Norwich as defined in the SHMA. The definition is based on the principle that housing is provided at prices below current market rate in perpetuity which people in Norwich are able to afford.~~focuses on housing provided for sale, rent or shared equity / ownership, at prices secured in perpetuity below the current market rate, which people in housing need are able to afford.~~ Consequently all types of affordable housing must include provisions to remain at an affordable price for future eligible households or for the subsidy/sale proceeds to be recycled to provide alternative housing.

Table 2: Definition of affordable housing

Affordable Housing Definition 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 must include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision. **Definition of Affordable Housing Types in Norwich** **Rented housing**

a) **Social rented housing**: Social rented housing is housing owned and managed by local authorities and registered providers, for which target rents are determined through the Government's rent policy for Social Rent. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with Homes England as a condition of grant. Typically social rented housing costs 50-60% of market rented housing.

b) **Affordable Rent housing** – let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent housing must meet all of the following conditions:
    i. The rent must be no more than 80% of the local market rent (including service charges, where applicable) and not exceed the level of the Local Housing Allowance for the size of property, whichever is the lower;
    ii. 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 for Build to Rent schemes, Affordable Private Rent housing is expected to be the normal form of affordable housing provision.

Intermediate housing

Homes for sale and rent provided at a cost above social rent but below market sale and rent levels. It includes a range of low cost home ownership products for households who are not able to access home ownership through the market:

a) Shared Ownership

The purchaser buys a proportion of the value of the home, e.g. 50%, and the remaining share is kept by the freeholder which is usually a registered provider. A subsidised rent is paid on the remainder of the equity. The proportion offered for sale by the registered provider should not be fixed in advance, but tailored to the individual circumstances of the individual household. The initial equity share must be between 25% and 75% and the council expects that at least 50% of each type and size of shared ownership units on each scheme should initially be sold at shares of 35% or below in order to help ensure affordability. When they can afford to, purchasers have the opportunity to 'staircase', i.e. to buy further equity shares until they own 100% of the property. The council requires that all shared ownership properties are affordable to people on the Help to Buy register (or equivalent) for Norwich.

b) Shared Equity

The purchaser acquires the whole of the property but effectively only pays a proportion of the value, e.g. 75%. The remaining 25% is secured by an equity loan without any rental obligation. The council requires that all shared equity properties are affordable to people on the Help to Buy register (or equivalent) for Norwich.

c) Discounted market sale housing

Discount Market Sale is a low cost home ownership product where a new build property is purchased at a discounted price, usually around 20% of the market value, and aims to help low and middle earners get onto the property ladder.

d) Rent to buy

Rent to Buy is a government scheme to help first time buyers, or those returning to the market following relationship breakdown. Households are able to rent a home at 80% of the market value, providing an opportunity to build up a deposit. If after the initial five years of letting the landlord wishes to sell the property, the existing tenant should have the right of first refusal to buy it. Similarly, if after the first five years the tenant submits a request to buy their home, it is expected that the landlord would agree.

2.4 Affordable housing will be expected to be provided and maintained in perpetuity in accordance with JCS policy 4 or for the subsidy/sale proceeds to be recycled for alternative affordable housing provision~~, if these restrictions are lifted for certain tenures of low cost home ownership, for the subsidy to be recycled for alternative affordable housing provision~~. For example, the definition does not include products such as Starter Homes (included in the NPPF definition) which are not secured in perpetuity. The NPPF requirement in paragraph 64 requiring at least 10% of housing on major development sites for affordable home ownership is considered incompatible with the identified housing need in the SHMA 2017.

2.5 The proportion of Affordable Rent units and discount offered on them may be varied across a development, over time. It may also be possible to explore a trade-off between the level of affordable housing secured and the tenure of that housing, with the proviso being that these should accord with the headline affordable housing contribution agreed with Norwich City Council through the planning permission. The details of such negotiations will need to be set out in a section 106 agreement.

2.6 It is current practice to accept Affordable Rent dwellings only where a developer can provide evidence that social rent is unviable or where evidence is provided that registered providers (RPs) will not accept social rented dwellings. It is considered preferable to accept Affordable Rent dwellings on-site, rather than a commuted sum as this helps build sustainable mixed communities.

2.7 However, if agreement is reached between a developer and Norwich City Council, this requirement can be met by other routes, such as a commuted payment and/or other forms of affordable housing as defined in the National Planning Policy Framework glossary. The details of this must be agreed and set out in a section 106 agreement

2.8 **Build to Rent** is referred above to under the definition of Affordable Rented Housing. This refers to 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. The NPPF states that "20% is generally a suitable benchmark for the level of Affordable Private Rent homes to be provided (and maintained in perpetuity) in any Build to Rent scheme". The guidance makes clear that Affordable Private Rent should be at least 20% cheaper than the rest of the scheme in line with the Affordable Rent product (see Table 2, (b) above).

2.9 Affordable units within Build to Rent developments are not expected to be managed by a Registered Provider, but should be under common management control by the private operator managing the whole site/block. Affordable units should be distributed throughout the development, being physically indistinguishable from the market rent homes within the development in terms of quality and size. The following matters should be agreed and secured under a Section 106 agreement for Build to Rent applications:

- Management arrangements for the affordable private rent units including the parameters of the lettings agreement, the rent levels, apportionment of the homes across the development, a management and service agreement, and a marketing agreement setting out how their availability is to be publicised.
- Operators of 'build to rent' schemes shall be required to produce an annual statement to be submitted to Norwich City Council. The statement shall provide confirmation of the approach to letting the affordable units, their ongoing status, and clear identification of how the scheme is meeting the overall affordable housing level required in the permission.
- Clauses relating to sale of the development either in whole or in part at a later date should be dealt with in the section 106 agreement to ensure that there is no loss of affordable housing provision in accordance with paragraph 60-007 of Planning Practice Guidance. A 'clawback' arrangement should be introduced in accordance with paragraph 60-008 of the Planning Practice Guidance.

2.10 Market rent assessments should be carried out by Build to rent Developers using the definition of the International Valuation Standard Committee as adopted by the Royal Institute of Chartered Surveyors. Norwich City Council will continue to review this benchmark rate against evidence emerging from the local housing need assessment, and if necessary us this evidence to justify an amendment to the rate required. There is also provision for developers, in exception, to make a case seeking to differ from the benchmark.

2.11 **Discounted market sales housing** and **Rent to Buy** are referred to in the definition at Table 2. At present, Norwich City Council does not have any such schemes but is open to proposals to work in partnership with developers to

deliver such forms of affordable housing in the future, subject to meeting the requirement in Table 2 to ensure that any affordable housing should remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

When is affordable housing required?

2.12 Although JCS policy 4 requires affordable housing to be provided on housing sites of 5+ units, the new NPPG requires affordable housing to be triggered on sites of 10 or more units. This policy approach was introduced by the Government via a ministerial statement in 2014, with a view to reducing policy burdens on small developers and encouraging greater delivery of small-scale housing sites and brownfield land.

2.13 Evidence of delivery on small housing sites in Norwich prior to 2014 suggests that seeking affordable housing on sites of 5-9 units is unlikely to deliver significant affordable housing on viability grounds.

2.14 Although the requirement in the 2014 ministerial statement was subject to legal challenge, it was subsequently upheld on appeal. The threshold of 10+ units was included in the 2015 SPD and is now carried forward into this updated SPD. This will apply to all proposals for residential and mixed use development from the pre-application stage on. It will also apply to proposals on residential or housing led local plan allocations as set out below (paragraphs 2.16 – 2.21).

2.15 Affordable housing requirements apply to the net increase of dwellings only (where planning permission is required). For example, if an application is submitted to demolish 10 open market dwellings and replace them with 20 dwellings then the net increase is 10 dwellings; the policy should then be applied to the 10 new dwellings.

Seeking affordable housing on residential allocations

2.16 Both the JCS and Norwich local plan acknowledge the importance of new residential development that contributes to a balance of housing types and tenures, which in turn contribute to mixed and balanced communities. New student accommodation in particular is often proposed on sites that could otherwise be developed for general purpose housing which would include affordable homes as part of a wider tenure mix.

2.17 The growing number of students living in Norwich has an impact on the availability of general market housing. Students who live outside purpose-built accommodation tend to house-share in the private rented sector which can affect the availability and costs of houses in the general market.

2.18 There is currently no policy basis for seeking affordable housing on all proposals for purpose built student accommodation, although this may change with the development of the Greater Norwich Local Plan; it is anticipated that the Regulation 18 draft plan will be consulted upon in late 2019 and the final version of the plan adopted in late 2021.

2.19 There are a number of sites currently allocated in the current Site Specific Policies and Site Allocations Plan (2014) for either housing development or housing-led mixed use development, which have not yet been developed. Proposals for care homes (C2 use class) and residential sui generis development on such sites should provide policy compliant affordable housing. For applications for purpose built student accommodation, this would be calculated on the basis of 2.5 units of student accommodation equating to 1 unit of general market housing[3]. For example, where a proposal to develop 250 units of PBSA on a site allocated for housing or housing-led development would equate to 100 units of general market housing, leading to a requirement for 33 units of affordable housing (or contribution based on this figure) to be provided. For residential care homes the calculation would be based on a ratio of 8:1.

2.20 Seeking affordable housing for care homes and purpose built student accommodation on sites allocated for either housing or housing-led development is justified on the basis that these are forms of housing, albeit not in the same use class as general market housing, and their delivery will reduce pressure on the private rented sector; furthermore these sites, if developed for housing in whole or in part, would have contributed affordable housing in accordance with JCS policy 4.

2.21 It would be acceptable for this requirement to be achieved via provision of a commuted sum rather than on site provision, given that incorporating affordable housing in a PBSA or residential institution scheme is likely to be difficult to achieve in a satisfactory manner.

Affordable housing design

2.22 The policies of the DM policies local plan relating to amenity (DM2), design (DM3), and principles for residential development (DM12) along with Section 12 'Achieving well-designed places' of the NPPF should all be adhered to when applying for planning permission for any development of residential dwellings. These standards should be applied to all forms of housing development, including affordable units.

2.23 It is critical that the design process recognises at an early stage the need to accommodate a mix of affordable tenures, and has the ability to incorporate

[3] To be consistent with the Government guidance on student accommodation in the Housing Delivery Test Rulebook, 2018.

affordable housing which meets the needs of, and is attractive to, RPs including the council. Applicants should undertake early discussions with RPs, considering alternative designs where necessary in order to accommodate on site affordable housing in the first instance. In accordance with NPPF paragraph 39, applicants should also progress active engagement through pre-application advice/discussions with Norwich City Council Planning Department.

2.24 This document outlines the threshold for an affordable housing requirement (10 units+) and the corresponding required percentage of affordable housing to be provided on site. In order to achieve the mixed and balanced communities advocated in JCS policy 4, as a minimum, the following design criteria should be met:

- there should be no distinction between affordable units and market units, (i.e. development should be 'tenure-blind');
- the same levels of car parking provision should be made for the affordable units as for market units (i.e. if 80% of the market housing has a parking space, then 80% of the affordable units should have a parking space), and;
- affordable units should be distributed evenly throughout the development where practicable to promote social inclusion and mixed communities.
- However it is acknowledged that there may be need for an element of flexibility in relation to the design of affordable housing for older people, for example relating to car parking provision and the even distribution of development.

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2.25 It is expected that a proportion of affordable units will ~~Affordable units should~~ be built in accordance with technical standards level 2 as set out in Approved Document M of the Building Regulations, in line with the requirement in policy DM12. This is broadly equivalent to the Lifetime Homes Standard. Affordable units should be built to provide suitable levels of internal space as set out in the nationally described space standard (https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard); in accordance with the PPG this should not compromise the viability of providing affordable housing on site.

2.26 Where a flatted development is proposed, the affordable housing units should meet the requirements of the Registered Providers (RPs) taking on the units upon completion of the development.

Application requirements

2.27 All development proposals should be fully policy compliant unless it can be demonstrated through a full viability assessment that this is not possible. Full planning applications should confirm the amount of development proposed, including the amount of affordable housing to be provided, the dwelling mix in terms of tenure and unit size and the location of the affordable homes. If, subject to the criteria outlined in this SPD, the affordable dwellings are not to be

provided on site, applicants should use the tables in Appendix 3 of this document to calculate the amount of commuted sum required to be paid in lieu of on-site provision.

2.28 Unless matters of design, layout, scale and external appearance are included within the outline submission, viability assessments of outline schemes will be afforded little weight in the decision making process. Outline planning applications without this level of detail should as a minimum secure the full affordable housing provision in accordance with JCS policy 4. If necessary, subsequent reserved matters applications may review the affordable housing provision and tenure mix in line with guidance on viability set out in section 3 of this document. Submissions should comply with the requirements for a full planning application outlined above.

2.29 Although the NPPF states that it is the responsibility of the applicant to justify the need for review of viability at decision making stage subject to agreement with the determining officer, it also clarifies that the weight given to viability assessment is for the decision maker to determine. Current practice is that the city council gives equal weight to viability assessments irrespective of the applicant and their ability to deliver. This approach can lead to scenarios where a landowner achieves planning consent on a site, then sells it on to a developer at an inflated price, which tends to impact on ability to deliver such sites. As noted in paragraph 3.15, planning practice guidance clarifies that the price paid for land is not a relevant justification for failing to accord with relevant plan policies. The city council therefore proposes to encourage delivery of housing, including affordable housing, by giving limited weight to viability assessments where the applicant is not proposing to deliver the scheme, for example where the applicant is a landowner rather than a developer.

2.30 Sites which are proposed to be developed partly under permitted development rights as outlined in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and partly requiring planning permission will be considered on a case by case basis regarding viability and resulting planning obligations. In accordance with 'Planning Obligations' Planning Practice Guidance paragraph 005 (Reference ID: 23b-005-20140306), only any area over and above permitted development is accountable for affordable housing, to be provided on the same basis as any other site. This can be worked out using the same method as the vacant building credit calculation (see below).

Artificial sub-division of sites

2.31 Where a site is, or has been, in a single ownership, artificial sub-division to avoid provision of affordable housing will not be permitted. The intention behind this statement is to distinguish between those schemes which are prepared with the intention of circumventing JCS policy 4, and those schemes which have been drawn up addressing legitimate planning considerations, and

therefore may not be able to provide affordable housing in accordance with the core strategy policy. Paragraph 68 of the NPPF 2018 favours small parcels of land for improved opportunities for deliverability, and promotes working with developers to encourage sub-division of large sites where this could help to speed up the delivery of homes.

2.32 In circumstances where a large site has been divided into smaller parcels to assist delivery, or where a site is owned by more than 1 party, an outline planning application will be expected for the entirety of the site, with 'parcels' or 'phases' numbers, distribution and timescales agreed for affordable housing upfront.

Vacant building credit

2.33 The government introduced a new measure in 2014 through a ministerial statement (which also raised the threshold for delivery of affordable housing – see paragraph 2.2 above) - the 'vacant building credit'. This measure is now confirmed in the 2018 NPPF: "To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount". Planning practice guidance provides further detail and notes that, in considering how the vacant building credit should apply to a particular development, local authorities should have regard to the intention of national policy to incentivise brownfield development.

2.34 This applies where existing vacant buildings are proposed to be brought back into lawful use or demolished and redeveloped. The government's intention in introducing the vacant building credit is to incentivise development on brownfield sites. It is not intended to incentivise the eviction of existing businesses or neglect of premises which are currently in use.

2.35 Therefore the vacant building credit will not apply where:

- The building is in use at the time the application is submitted;
- The building is covered by an extant or recently expired permission for the same or substantially the same development;
- The site is allocated for an alternative land use;
- It appears that the building has been made vacant for the sole purpose of redevelopment; or
- The building has been abandoned.

2.36 In line with the CIL regulation requirements, a building can be regarded as vacant if it has not been in use for a continuous period of at least six months

within the past thirty six months. By using a corresponding definition, it will not be possible to claim both CIL exemption and Vacant Building Credit consecutively on a single development in Norwich.

2.37 Further to this, the Council will require the applicant to demonstrate a high standard of evidence to show the circumstances of the building becoming vacant. Unless the site is already allocated for housing, a~~A~~n application for vacant building credit must be supported by detailed evidence of how the site has been actively marketed on realistic terms based on the current lawful use or any potential permitted use for a minimum period of 12 months prior to the submission of a planning application. Evidence such as Council Tax, Business Rates or Electoral Register records may be required to determine whether or not a building is vacant.

2.38 Where the 'vacant building credit' is applicable, it will be calculated in the following way:

- The existing affordable housing requirement is outlined in bullet points 2 and 3 of JCS policy 4, i.e. for proposals of 10-15 dwellings 30% affordable housing will be required, for developments of 16 plus dwellings 33% affordable housing will be required.

- The net affordable housing requirement should be recalculated to take into account the two gross floor areas (the original building floorspace to be demolished or brought back into lawful use, and the proposed replacement building) to arrive at the net maximum affordable housing target for that site. The following formulae will be applied:

  A / P x JCS policy requirement (0.30 or 0.33) = R

  Where:
  P = Proposed floorspace
  E = Existing floorspace
  A = net Additional floorspace (P-E)
  R = Net affordable housing Requirement

2.39 Once the affordable housing requirement has been calculated, all other parts of this SPD should then be applied to the affordable housing contribution.

2.40 For clarity, a worked example for a scheme of 26 dwellings is shown below (the GIA schedule on the following page has been supplied with the application):

- P = 1607.1
- E = 865
- A = 742.1
- R = 742.1 / 1607.1 x 0.33

- The net affordable housing requirement is 15%

Proposed housing			Existing vacant retail floorspace	
Plot	Beds	GIA Sqm	Unit No	GIA Sqm
1	1	46.2	Unit 1	565
2	1	46.2	Unit 2	300
3	2	70.2	Total GIA	865
4	2	64.2		
5	2	64.2		
6	2	64.2		
7	2	64.2		
8	1	45.2		
9	1	46.2		
10	1	46.2		
11	2	70.2		
12	2	64.2		
13	2	64.2		
14	2	64.2		
15	2	64.2		
16	1	45.2		
17	1	46.1		
18	3	83.2		
19	2	70.2		
20	2	64.2		
21	2	64.2		
22	2	64.2		
23	2	64.2		
24	1	45.2		
25	3	84.3		
26	3	92.3		
Total GIA		1607.1		
Average GIA		61.8		

2.41 If, after such a calculation has been made, development of the site is still not viable, section 3 of this SPD will apply.

3. ESTABLISHING DEVELOPMENT VIABILITY

3.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise4. The issue of viability can be a material consideration. The NPPF / PPG clarifies that the weight to be given to the viability assessment is a matter for the decision maker.

3.2 The fundamental issue in considering development viability is whether an otherwise viable development is made unviable by the extent of planning obligations or other policy requirements. Figure 1 below illustrates this point, looking at 2 examples: 'Development 1' and Development 2'.

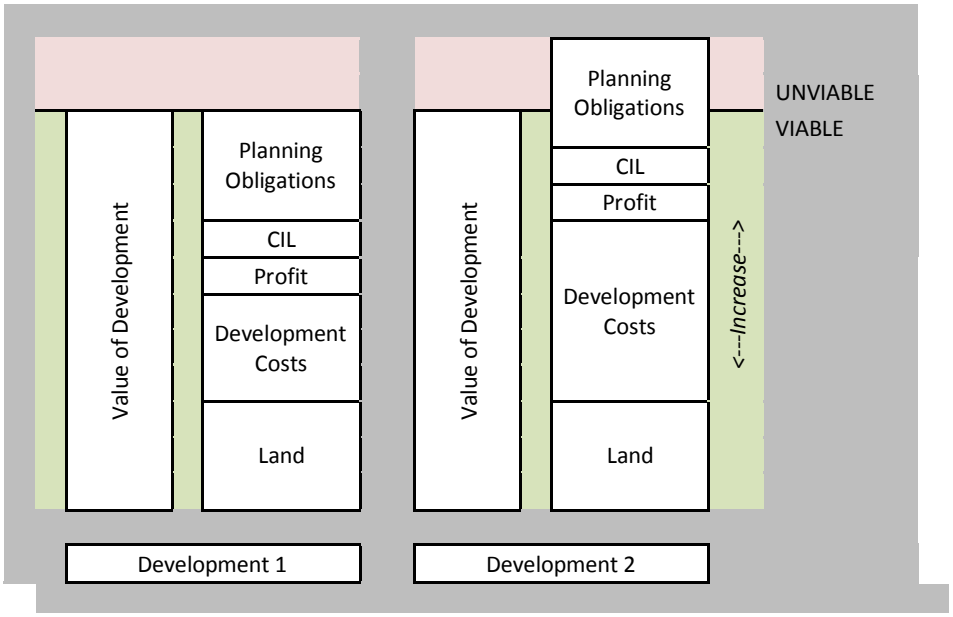


Figure 1: Adapted from RICS 'Financial Viability In Planning' (2012)

3.3 In 'Development 1' the value of the development can be met whilst meeting all planning obligations and costs and maintaining a reasonable return for the ~~land owner~~ developer.

3.4 In 'Development 2' the costs have increased and as a result the development becomes unviable. In such a case a viability assessment would be expected to be provided by the developer.

[4] Section 38(6) of the Planning and Compulsory purchase Act 1004 and Section 70(2) of the Town and Country Planning Act 1990.

3.5 This section of the SPD sets out the council's requirements for viability assessments. Upon receipt of an assessment, the council will seek verification (where necessary) of the developer's viability assessment to determine the accuracy of the projected development cost, land values and the level of return, and to ascertain those planning obligations that could be negotiated, and to what level, to render the site viable ~~whilst still retaining a reasonable return for the land owner~~ and incentivise the development. The council will expect the developer to pay for such an assessment and the costs of this can be added to the viability assessment.

Viability assessment

3.6 NPPF paragraph 67 states that planning policies and site allocations should identify a sufficient supply and mix of sites. This should enable provision of appropriate levels of affordable housing without undermining the deliverability of the plan, as required in paragraph 34 of the NPPF. The economic viability of sites should be accounted for through production of viability assessments at plan making stage and through further updates of the local plan (guidance is provided in Planning Practice Guidance on Viability).

3.7 The NPPF considers that viability assessment should not generally be necessary at decision making stage, as proposals for development should accord with the relevant policies in an up-to-date development plan. The planning practice guidance states that "[p]olicy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the decision making stage" (Ref. ID. 10-002-20180724). Paragraph 57 and practice guidance paragraph 10-007 set out circumstances where a decision stage viability assessment may be appropriate and places the emphasis on the applicant to demonstrate whether particular circumstances justify the need for a decision stage viability assessment.

3.8 The Joint Core Strategy was adopted prior to the publication of the NPPF 2018 and supports site-specific viability appraisal at decision making stage. JCS Policy 4 sets target proportions of affordable housing (depending on site size) across the Greater Norwich area. The evidence sitting behind the policy is summarised at Appendix 1 and concluded that a significant proportion of schemes would not be viable at the target level of affordable housing. Therefore on the basis of this evidence the policy supports adjustments to the policy requirement where it can be demonstrated that affordable housing requirements along with site characteristics and infrastructure requirements would render the site unviable in prevailing market conditions.

3.9 Viability assessments shall be required at decision making stage in a variety of circumstances. This includes applications submitted that are not fully policy

compliant with the local plan; applications for development on un-allocated land or applications which are not in accordance with the allocation; if the situation is considered to have changed since the plan was issued. In accordance with paragraph 58 of the draft NPPF 2018: "Where proposals for development accord with all the relevant policies in an up-to-date development plan, no viability assessment should be required to accompany the application.

What should a viability assessment cover?

3.10 Where an application does not meet policy requirements for affordable housing, a viability assessment must be submitted in a standardised and accessible format with full supporting evidence to substantiate the inputs used, prior to an application being validated.

3.11 Current Planning Practice Guidance (PPG) sets out the requirements and expectations appropriate to production of viability assessments in relation to deliverability of affordable housing, including:

- Land value definition
- Benchmark land value
- Existing Use Value (EUV) of land
- Premium to the landowner
- Alternative use Value

3.12 ~~Viability assessments must follow the approach set out in the PPG however the council proposes to adopt alternative approaches in relation to land value uplift and reasonable profit as set out below~~ Paragraphs 3.13 – 3.18 below clarify how the local planning authority will assess land value uplift and reasonable profit for planning applications in Norwich..

Land Value

3.13 In quantifying viability, it is necessary to establish a benchmark land value; this consists of the existing use value (EUV) of the land, plus a premium for the landowner. Whilst the PPG provides guidance on calculating EUV, it does not specify what is deemed to be an appropriate/acceptable premium for the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The PPG advises: "The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing sufficient contribution to comply with policy requirements. This approach is often called 'existing use value plus' (EUV+).

3.14 The uplift above EUV will be considered on a case by case basis, however the Drivers Jonas Deloitte Study which provided the evidence base for JCS policy 4 advocated a 15% uplift on brownfield sites which will be taken as the starting point for consideration.

3.15 PPG clarifies that "…under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan." This position is supported by recent case law 'Parkhurst Road Ltd. v Secretary of State for Communities and Local Government [2018] EWHC 991 (Admin) May 2018.

Reasonable profit

3.16 Reasonable profit for the developer is a key input into the calculation of the viability of a proposed development. Paragraph 018 reference ID:10-018-20180724 of the PPG suggests for viability at plan making stage "an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types." For information reasonable profit typically covers the risk to the developer of no sales or lower value sales, which is different to contingency costs which cover the risk to the developer of higher build costs and unknown build costs.

3.17 Given the significant need for affordable housing in Norwich, the council will require reasonable profit for the developer to be at the lower end of the range set out in the PPG (ie at around 15%) but will consider enabling this to rise to 17.5% only if it is demonstrated by the applicant that this is justified on grounds of risk and could impact on delivery of the scheme. However there may be exceptions to this approach, for example, as referenced in the PPG, a lower rate of profit may be more appropriate for affordable housing schemes where the risk to the developer is significantly reduced. Also the level of profit on more complex mixed use developments may need to be a blend of profits relative to risk of the mixture of uses proposed.

3.18 In addition the council will expect that industry standard contingency costs should apply (typically 5% but exceptionally rising up to 10% depending on the risks of the scheme), in order to avoid developers reducing profit but raising contingency assumptions.

Public availability of viability assessments

3.19 Where a viability assessment is required, or is submitted by an applicant to accompany an application at decision making stage, this should be prepared with professional integrity by a suitably qualified practitioner and presented in accordance with current national planning guidance and this SPD.

3.20 In accordance with PPG, any viability assessment should be prepared on the basis that it will be made publically available (including published online) for scrutiny, other than in exceptional circumstances. Even in exceptional circumstances, an appropriate executive summary must be produced which can be made publicly available. The government is in the process of developing a template for an 'executive summary'. This is expected to be completed and submitted with any viability assessment submitted to accompany a planning application.

3.21 If, in exceptional circumstances, a submitted viability assessment is considered by the applicant to contain commercially sensitive information that would justify this information not being made public. The exceptional circumstances must be identified by the applicant at pre-application stage as well as at the time of submitting the application, with clear justification of why this is considered to be the case.

3.22 Where an exemption from publication is sought, Norwich City Council must be satisfied that the information to be excluded is commercially sensitive. Information held by the council is subject to the Freedom of Information Act 2000. Section 43 of the Act exempts information if it constitutes a trade secret, or is likely to prejudice the commercial interests of any person (including the public authority holding it). Where the council judges that information should be deemed commercially sensitive, it will be necessary for two versions of the viability assessment to be provided; one 'high-level' version with potentially commercially sensitive information (i.e. build costs) presented as a total figure, this version should be suitable for publishing in the public domain. A second version containing the full breakdown of quantities, which may be commercially sensitive, should be submitted for scrutiny by Norwich City Council.

3.23 This approach supports transparency in the viability assessment process so that it is clear what policy requirements will inform planning decisions; including the developer contributions that will be expected with regard to the levels and types of affordable housing.

Review of viability as development progresses

3.24 A viability assessment represents a snapshot of development viability at a particular moment in time, and is based upon the best available up to date information at that point. As a result, the assumptions within the viability assessment could change.

3.25 Where reduced on-site provision or off-site provision is accepted by means of a commuted sum it will be necessary to revisit the viability assessment for the development scheme if the scheme has not been commenced. This will ensure that the values associated with the development are still valid should the development be implemented sometime after the viability appraisal was originally undertaken.

3.26 Any Section 106 agreement relating to a development where reduced on-site provision or a commuted sum has been accepted as necessary due to development viability considerations will include an 'affordable housing viability review clause'. Such a clause will come into effect upon either of the following criteria being met:

- if there has been no commencement of the permission within 12 months of the date of the decision being issued, or;
- if commencement has occurred within 12 months of the decision being issued but where there has been no occupation within a further agreed period of time (defined on a case by case basis) from commencement. For sites with schemes of significant size or complexity, this may need to be staggered, subject to agreement.

3.27 The review will reassess the total affordable housing provision. Such a review may result in additional affordable housing provision either on site or via a commuted sum.

3.28 In accordance with PPG 'Viability' paragraph 009 "As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project".

3.29 Large multi-phase schemes determined with an agreed level of provision of affordable housing/commuted-sum at outline application stage will be expected to review the viability as part of any following Reserved Matters application submissions for each phase.

4. PLANNING OBLIGATIONS

4.1 In June 2013 the city council adopted the Community Infrastructure Levy (CIL). CIL is a planning charge, introduced by the Planning Act 2008, as a tool for local authorities in England and Wales to help deliver infrastructure to support the development in their area. It came into force through the Community Infrastructure Levy Regulations 2010.

4.2 Despite the introduction of CIL planning obligations are still relevant in certain circumstances and are required in order to secure acceptable development. Policy DM33 (see Appendix 2) of the local plan outlines when such obligations will be required (see also the city council's published Regulation 123 list). The remaining obligations include (positioning in the list below is not an indication of priority):

- the delivery of affordable housing;
- the delivery of on-site open space and play space required directly to serve the development~~, and~~;
- pedestrian and highway safety improvements necessary to secure satisfactory access to the development via a range of modes of transport, and;
- the transfer of land, for example for a new school.~~.~~

4.3 In the event that a developer can demonstrate that a development is not viable with the full range of planning obligations being met, the council will undertake an assessment of the priority of those obligations required from the development. Prioritisation of planning obligations will be made on a case by case basis, taking into consideration site specific circumstances and other material considerations.

4.4 The NPPF and CIL regulations set out the tests against which planning obligations should be considered. They should be:

- necessary to make the development acceptable in planning terms;
- directly related to the development, and;
- fairly and reasonably related in scale and kind to the development.

4.5 Where affordable housing provision on site is considered to be a priority, JCS policy 4 and the principles of this SPD should apply, and dwelling numbers and tenures negotiated as appropriate.

4.6 Where affordable housing provision on-site is considered to be of a lesser priority to other site specific planning obligations, or where development remains unviable even when all planning obligations are removed, then the following sections of this SPD will apply.

5. REDUCED ON-SITE AFFORDABLE HOUSING PROVISION

5.1 The council's preferred approach to delivering affordable housing is that it should be provided on-site.

5.2 However if non-viability of development with a policy compliant level of affordable housing can be demonstrated via an open book viability assessment carried out in accordance with the PPG and this SPD, then reduced provision on-site will be considered in the first instance.

5.3 In such cases, the design considerations outlined in this SPD should be applied and dwelling numbers and tenures negotiated as appropriate.

5.4 In addition, Section 3 of this SPD regarding review of viability where non-commencement of development occurs, will also apply.

6. OFF SITE AFFORDABLE HOUSING PROVISION VIA A COMMUTED SUM

6.1 The following sections of this SPD outline the circumstances in which provision for affordable housing to be made off-site via a commuted sum may be considered acceptable whilst not undermining the NPPF objective to create mixed and balanced communities, and whilst still providing a contribution towards provision of affordable homes.

6.2 In accordance with government policy to secure balanced communities, the provision of affordable housing on-site in accordance with JCS policy 4 is favoured and will remain the starting point in all cases. However, in recognition of local evidence, and in the light of government statements about the need for flexibility in the planning system and to stimulate the development economy to increase the rate of provision of homes and jobs, it is considered that in certain circumstances it is pragmatic to accept the provision of off-site affordable housing via a commuted sum to ensure sites are not stalled and much needed housing can be delivered.

6.3 For example on-site provision can create certain practical difficulties and tensions with other policy objectives such as the minimum density requirement. This may lead to single units being required, or flatted forms of development with high service charges which may be unattractive to RPs.

6.4 It is also recognised that the viability of providing affordable housing on site for some developments may be difficult on occasions. RP capacity to take on affordable dwellings on private developments has been limited in recent years but is recovering in a generally more buoyant market. Developers should undertake early discussions with RPs, considering alternative designs where necessary in order to accommodate on-site affordable housing in the first instance.

6.5 This approach of accepting a commuted sum in lieu of on-site provision delivers a valuable funding stream to providing affordable dwellings off-site. This SPD proposes to continue seeking commuted sums for off-site provision, where appropriate, to ensure that potential funding sources are not lost and to ensure affordable housing is provided. The council considers that this approach takes account of the need for flexibility advocated by government in prevailing market conditions which are a material consideration when determining planning applications.

6.6 Examples of situations where it may be acceptable to seek off-site provision of affordable housing via a commuted sum include the following (these are not exhaustive):

~~**Example1**~~

6.7 ~~On any site where after an open-book viability appraisal has been conducted and accepted by the council after independent assessment where necessary (based on a residual method) it can be demonstrated that the site is not sufficiently viable to enable the provision of a single affordable dwelling on site~~.

Example1
On any site where after an open-book viability appraisal has been conducted and accepted by the council after independent assessment where necessary (based on a residual method) it can be demonstrated that the site is not sufficiently viable to enable the provision of a single affordable dwelling on site.

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~~**Example 2**~~

6.8 ~~On relatively small sites proposed for flatted developments (typically developments of 15 or fewer units on sites of 0.2ha or less) where it can be demonstrated that RPs are reluctant to take on the management of affordable units~~.

6.9 ~~In these cases developers will be expected to provide written evidence that no RP is willing to take on the unit(s) and that their preferred scheme design has difficulty accommodating affordable housing on site and that they have considered alternative arrangements which would be more attractive to RPs. The housing development team will contact the relevant RPs on behalf of the developer if requested~~.

Example 2
On relatively small sites proposed for flatted developments (typically developments of 15 or fewer units on sites of 0.2ha or less) where it can be demonstrated that RPs are reluctant to take on the management of affordable units.
In these cases developers will be expected to provide written evidence that no RP is willing to take on the unit(s) and that their preferred scheme design has difficulty accommodating affordable housing on site and that they have considered alternative arrangements which would be more attractive to RPs. The housing development team will contact the relevant RPs on behalf of the developer if requested

~~**Example 3**~~

6.10 ~~On any site with exceptional site specific factors which would not be attractive to RPs (evidence of which will be required), such as inappropriate floor areas or high service charges~~.

6.11 ~~It will be up to the developer to demonstrate that the constraints associated with development of the site make it impractical for development to be brought~~

~~forward in a form which may be more attractive to RPs and that RPs are not prepared to manage units as proposed. Each application will be considered on its own merits~~.

Example 3
On any site with exceptional site specific factors which would not be attractive to RPs (evidence of which will be required), such as inappropriate floor areas or high service charges.
It will be up to the developer to demonstrate that the constraints associated with development of the site make it impractical for development to be brought forward in a form which may be more attractive to RPs and that RPs are not prepared to manage units as proposed. Each application will be considered on its own merits.

6.12 Where it is demonstrated that a development is unviable if a fully policy compliant scheme is sought, or where reduced on-site provision cannot be provided, then a commuted sum for provision of off-site affordable housing will be accepted.

6.13 A schedule of the level of payments that will be used in calculating such a commuted sum in lieu of provision of on-site affordable housing is set out in Appendix 3. These are set at a level that will enable the city council to typically deliver a unit equivalent in type to the those being provided on the site proposed for development i.e. a site providing for 10 one bedroom units and not able to provide three affordable units on site will be expected to make a contribution sufficient to provide for three one bedroom units as part of another development elsewhere in the city. Figures presented in Appendix 3 are accurate at the time of writing however all sums should be index linking using 'BCIS All-in tender price index' back to the date of the SPD.

How will commuted sums be spent?

6.14 Commuted sums collected by the council in lieu of on-site provision of affordable housing will be spent on delivery of affordable housing schemes across the city.

6.15 A clause in the Section 106 agreement will impose a time limit of 10 years on the council within which they must spend the commuted sum received from the development. Such a time limit will start from the date of receipt of the commuted sum.

6.16 Monitoring of planning obligations through section 106 agreements will be recorded using the standard open data monitoring tool as advised by PPG paragraph 024.

7. DETAILS OF PUBLIC CONSULTATION

7.1 A 4-week period of consultation on this draft SPD will commence at 9am on Thursday 17 January and end at 5pm on Wednesday13 February 2019.

7.2 Copies of the consultation document will be available in City Hall and in the Forum.

7.3 Please submit comments on the consultation by 13 February in one of the following ways:

- In writing to: Norwich City Council Planning Service, City Hall, St Peter's Street, Norwich NR2 1NH; or
- By email to: LDF@norwich.gov.uk

7.4 Representations cannot be made anonymously. Please provide your name, company name (if applicable) and your client's name / company (if applicable). Please note that your representations will be made publicly available along with your name.

7.5 All consultation comments will be assessed and taken into consideration in a revised version of the SPD to be considered by Cabinet. It is anticipated that the final SPD will be adopted in March 2019.

APPENDICES

1. Joint Core Strategy policy 4
2. Policy DM33 of Norwich's Development Management Policies Plan
3. Methodology for calculation of payments for off-site affordable housing provision
4. Glossary

Appendix 1: *Joint core strategy* policy 4: housing delivery

Policy 4: Housing delivery

Allocations will be made to ensure at least 36,820 new homes can be delivered between 2008 and 2026, of which approximately 33,000 will be within the Norwich Policy Area (NPA – defined in Appendix 4), distributed in accordance with the Policies for places.



Affordable housing in Norwich

Housing mix

Proposals for housing will be required to contribute to the mix of housing required to provide balanced communities and meet the needs of the area, as set out in the most up to date study of housing need and/or Housing Market Assessment.

Affordable Housing

A proportion of affordable housing, including an appropriate tenure mix, will be sought on all sites for 5 or more dwellings (or 0.2 hectares or more). The proportion of affordable housing, and mix of tenure sought will be based on the most up to date needs assessment for the plan area. At the adoption of this strategy the target proportion to meet the demonstrated housing need is:

- on sites for 5-9 dwellings (or 0.2 – 0.4 ha), 20% with tenure to be agreed on a site by site basis (numbers rounded, upwards from 0.5)
- on sites for 10-15 dwellings (or 0.4 – 0.6 ha), 30% with tenure to be agreed on a site by site basis (numbers rounded, upwards from 0.5)
- on sites for 16 dwellings or more (or over 0.6 ha) 33% with approximate 85% social rented and 15% intermediate tenures (numbers rounded, upwards from 0.5)

The proportion of affordable housing sought may be reduced and the balance of tenures amended where it can be demonstrated that site characteristics, including infrastructure provision, together with the requirement for affordable housing would render the site unviable in prevailing market conditions, taking account of the availability of public subsidy to support affordable housing.

At appropriate settlements, sites that would not normally be released for housing will be considered for schemes that specifically meet an identified local need for affordable homes. Such schemes must ensure that the properties are made available in perpetuity for this purpose.

Housing with care

Mixed tenure housing with care will be required as part of overall provision in highly accessible locations. In particular provision will be required in Norwich, and the major growth locations of Old Catton, Sprowston, Rackheath and Thorpe St Andrew growth triangle, Cringleford, Hethersett, Wymondham and Long Stratton, and at Aylsham, Acle and Wroxham.

Gypsies and Travellers

Provision will be made for a minimum of 58 permanent residential pitches for Gypsies and Travellers between 2006 and 2011 to ensure full conformity with Regional Spatial Strategy Policy H3. These will be provided on the following basis: Broadland 15, Norwich 15, and South Norfolk 28.

Between 2012 and 2026, an additional minimum 78 permanent residential pitches will be provided to ensure full conformity with Regional Spatial Strategy Policy H3. These will be distributed on the following basis: Broadland 20, Norwich 20, and South Norfolk 38.

These will be provided on a number of sites. Generally sites will not have more than 10 to 12 pitches, but may be varied to suit the circumstances of a particular site. The sites will be provided in locations which have good access to services and in locations where local research demonstrates they would meet the needs of the Gypsy and Traveller communities. Some of the allowance to be provided after 2011 is expected to be provided in association with large-scale strategic housing growth.

In addition, 17 transit pitches will be provided, with the expectation that these will be provided by 2011. These will generally be in locations providing good access to the main routes used by Gypsies and Travellers, such as the A11, A47, A140 and A 143/A1066. Again, sites would not normally be expected to accommodate more than 10 to 12 pitches.

Research also shows the need for additional plots for Travelling Show People. The expectation is that 15 additional plots will be provided by 2011 and a further 12 between 2012 and 2026. These will be located on sites within the Norwich urban area, or if sites within the urban area cannot be identified, with easy access to it.

The Government has signalled its intention to revoke the Regional Spatial Strategy. When this is enacted new targets for permanent residential and transit pitches for the period after 2011 will be set, based on local evidence.

Contributes to spatial planning objective 2

Note on evidence relating to affordable housing viability

The evidence base for the Joint Core Strategy Policy 4 is presented in the 'Affordable Housing Viability Study July 2010' produced by Drivers Jonas Deloitte (DJD study), commissioned by Greater Norwich Development Partnership.

The DJD study tested the financial viability of delivering affordable housing under a range of cost and revenue assumptions and compared the results to a range of benchmark land values. The methodology adopted was a residual land value appraisal using a 1 hectare site and applying various different assumptions to run over 25,000 assessments. The DJD study did not outline certain typologies, grouping sites of shared characteristics or even assess specific strategic sites as suggested by revised practice guidance paragraphs 10-004 and 10-005. It did however test a number of greenfield and brownfield scenarios using a range of assumptions and using standardised inputs which were broadly consistent with those listed in the practice guidance. The key variables tested were:

a) Affordable housing targets of 20%, 30% and 40%;
b) Density ranges between 30-100dph;
c) Market values – ranges tested to reflect current and potential future trends;
d) Tenure splits between 85:15 and 60:40 (social rent/intermediate);
e) The effect of social housing grant;
f) Construction costs – ranges tested to reflect current and potential future trends;
g) Unit mix – differing mixes for each of the three Council areas;
h) Market conditions – weak to strong;
i) S106 and CIL costs – CIL was not introduced at the time but the impact of its introduction was tested using assumptions;
j) The impact of different levels of Code for Sustainable Homes compliance;
k) Developer profit ranging from 17.5% to 25%.

The DJD study assumed a number of fixed costs as follows:
a) professional fees at 12% of costs;
b) contingency at 5% of costs;
c) planning costs at £300 per unit;
d) finance at 6.5%;
e) sales and marketing costs at 3.5% of value.

The appraisals were assessed against six different benchmark land values, three for greenfield and three for brownfield. The three brownfield rates assume a former industrial use noting that other values could be seen for other uses (and which were not tested). Brownfield EUV rates between £0.5m-£1.5m per hectare were tested with an uplift of 15% based on relevant case law at the time. Separate studies were also undertaken for small sites of between 5-14 dwellings.

The DJD study used 40% affordable housing as the baseline but did test viability at 30% and 20%. Their recommendations state that "*in our opinion a strategic policy wide target of 40% affordable housing is appropriate. There are however several scenarios where this will not be viable and we would suggest that the policy is worded to allow an applicant to demonstrate that a proposed scheme is not viable*". The DJD study identified that at 40% affordable housing around 30% of scenarios were viable, 10% were marginal and 60% were unviable. If a refined value range is used excluding lower values the results improved to show that 47% of scenarios would be viable, 15% marginal and 36% unviable. Using the un-refined value range, even at 20% affordable housing 45% of scenarios were unviable. Therefore, given that a good proportion of scenarios remained unviable the report and subsequently the policy supported site-specific viability appraisal.

The DJD Study was commissioned following concerns over soundness of JCS policy 4 during the examination. This led to focused changes proposed by the three Councils promoting a target of 40% affordable housing provision but with a commitment to reducing the proportion on the basis of viability assessment.

The affordable housing target was amended following the inspectors report from 40% to 33% and this was based on evidence within the 2006 Strategy Housing Market Assessment (SHMA) on the need for housing.

The DJD study and JCS policy 4 support viability assessment at the decision making stage to establish the level and nature of affordable housing to support where requirements would render the site unviable in prevailing market conditions.

Appendix 2: Policy DM33 of the *Development management policies local plan*

Policy DM33 - Planning obligations

General principles

Delivery of essential infrastructure on or adjoining a site which:
a) is only necessary as a direct consequence of the development proposed; and
b) cannot be secured via condition; and
c) is not identified as infrastructure to be delivered through the Community Infrastructure Levy (infrastructure identified on the "Regulation123 list") will be secured by a site specific planning obligation.

Planning obligations will be required to secure infrastructure which is necessary to ensure:

a) the delivery of sustainable development (through compliance with the policies of this plan, other development plan documents and relevant neighbourhood plans);
b) the delivery of affordable housing;
c) the delivery of on-site open space and playspace required directly to serve the development
d) pedestrian and highway safety improvements necessary to secure satisfactory access to the development via a range of modes of transport.

Viability considerations
In cases where it is demonstrated by independent viability assessment that:

a) the impact of CIL contributions, planning obligations and abnormal development costs either individually or in combination, would result in a proposed development becoming economically unviable; and
b) a viable scheme cannot be achieved by amendments to the proposals which are consistent with the other polices within this plan,

specific policy requirements which would clearly and demonstrably compromise scheme viability may be negotiated, and planning obligation requirements covering specific matters may be reduced, by agreement. Negotiation on planning obligation requirements should be in accordance with the council's approved Planning Obligations Prioritisation Framework (or successor document) or consideration may be given to specific infrastructure which would normally be delivered through a planning obligation being added to the "Regulation 123 list" and delivered instead via CIL.

Appendix 3: Methodology for calculating payments for off-site affordable housing provision in circumstances where provision off-site is considered acceptable.

SOCIAL RENT								
Property type	**Land costs (a)**	**Build costs (b)**	**On costs**	**Total scheme costs**	**RP/LA Borrowing Against rent (c)**	**Shortfall (d)**	**Typical floorspace* (m^2) (e)**	**Shortfall per m^2 (d/e) (f)**
Studio	£20,000	£50,700	£3,802.50	£74,502.50	£12,282.59	£62,219.91	39	£1,595.38
1B 2P	£20,000	£65,000	£4,875.00	£89,875.00	£27,117.00	£62,758.00	50	£1,255.16
2B 3P	£20,000	£79,300	£5,947.50	£105,247.50	£32,820.18	£72,427.32	61	£1,187.33
2B 4P	£20,000	£102,700	£7,702.50	£130,402.50	£34,326.68	£96,075.82	79	£1,216.15
3B 5P	£20,000	£120,900	£9,067.50	£149,967.50	£39,445.71	£110,521.79	93	£1,188.41
4B 6P	£20,000	£137,800	£10,335.00	£168,135.00	£70,897.74	£97,237.26	106	£917.33
Average	£20,000	£92,733.33	£6,955.00	£119,688.33	£36,140.63	£83,547.70	71.33	**£1,171.23**

SHARED OWNERSHIP –50% equity sold									
Property type	**Land Cost (a)**	**Build cost (b)**	**On costs**	**Total scheme cost**	**RP/LA Borrowing against rent (c)**	**Capital receipt for 50% equity (d)**	**Shortfall (e)**	**Typical floor space*(m²) (f)**	**Cost per m² (d/e) (g)**
Studio	£20,000	£50,700	£3,802.50	£74,502.50	£10,191.94	£44,967.00	£19,343.56	39	£495.99
1B 2P	£20,000	£65,000	£4,875.00	£89,875.00	£15,495.43	£57,650.00	£16,729.57	50	£334.59
2B 3P	£20,000	£79,300	£5,947.50	£105,247.50	£20,798.93	£70,333.00	£14,115.57	61	£231.40
2B 4P	£20,000	£102,700	£7,702.50	£130,402.50	£29,484.36	£91,087.00	£9,831.14	79	£124.44
3B 5P	£20,000	£120,900	£9,067.50	£149,967.50	£36,248.24	£107,229.00	£6,490.26	93	£69.79
4B 6P	£20,000	£137,800	£10,335.00	£168,135.00	£42,520.20	£122,218.00	£3,396.80	106	£32.05
Average	£20,000	£92,733.33	£6,955.00	£119,688.33	£25,788.52	£82,247.33	£11,652.48	71.33	**£163.35**

*Net internal

Average cost of affordable provision per m² floorspace is therefore calculated to be (£1171.23 x 0.85) + (£163.35 x 0.15) = £1020.05.
Total contribution due therefore equals net internal floorspace of development proposed x 0.30 (if 10-15 dwellings), or 0.33 (if 16 plus dwellings) AAm² (affordable housing foregone) Contribution needed to provide this level of provision elsewhere = £1020.05 x AA + flat fee (estimated at £1000 to cover legal costs associated with the land transfer etc.) Figures correct at Sept 2018. Figures should be index linked using BCIS All-in tender.

Appendix 4: Glossary

Term	Definition
Affordability	A measure of whether housing may be afforded by certain groups of households.
Affordable housing (AH)	This can be summarised as housing provided for sale, rent, or shared equity at prices in perpetuity below the current market rate, which people in housing need can afford. Please see full proposed definition at Table 2
Alternative Use value (AUV)	For the purpose of viability assessment alternative use value (AUV) refers to the value of land for uses other than its current permitted use, and other than other potential development that requires planning consent, technical consent or unrealistic permitted development with different associated values. AUV of the land may be informative in establishing benchmark land value. If applying alternative uses when establishing benchmark land value these should be limited to those uses which have an existing implementable permission for that use. (PPG paragraph 017, revision date 24.07.2018)
Bedspaces	The maximum number of full size beds which can be accommodated in the sleeping area of a house.
Benchmark	A comparator for either outputs or inputs into the appraisal, ie Site Value or developers return, etc.
Build to Rent	Purpose built housing typically 100% rented out. It can form part of a wider multi-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 be professionally managed stock in single ownership and management control.
CIL	Community Infrastructure Levy. A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area. CIL is levied on a wider range of developments and in accordance with a published tariff or charging schedule. This spreads the cost of funding infrastructure and provides certainty to developer of how much they will have to pay. In addition, the charging authority must produce a regulation 123 list of the infrastructure projects CIL monies will be spent on.

Commencement	Commencement of development is taken to be initiated if any material operation or change of use is carried out: Any work of construction in the course of erection of a building; Any work of demolition of the building; The digging of a trench which is to contain the foundations, or part of the foundations of any building; The laying of any underground main pipe to the foundations or part of the foundations of a building, or to any such trench mentioned in bullet point 3 above; Any operation in the course of laying out or constructing a road or part of a road; Any change in the use of the land which constitutes material development.
Commuted payment	Payment made by a developer to the local planning authority (usually secured by means of a Planning Obligation) to fund provision of a facility needed to serve a development, but to be built or provided elsewhere or in some way other than by the developer.
Core strategy	The spatial planning strategy that sets out long term objectives for planning across the authority area.
Current Use Value (CUV)	Market value for the continuing existing use of the site or property assuming all hope value is excluded, including value arising from any planning permission or alternative use. This also differs from the Existing Use Value. It is hypothetical in a market context as property generally does not transact on a CUV basis.
Current Use Value (Plus a premium) (CUV+premium)	Used by some practitioners for establishing Site Value. The basis is as with CUV but then adds a premium (usually 10% to 40%) as an incentive for the landowners to sell. However, it does not reflect the market and is both arbitrary and inconsistent in practical application.
Deliverable	To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Sites that are not major development, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Density (housing development)	A measure of the average concentration of housing within a given area (normally expressed as number of dwellings per hectare). Net density is a more refined measure of the actual area developed for housing purposes and excludes open space, major distributor roads, landscaped strips and primary school sites from the calculation of the developed area.
Development	Defined in planning law as 'the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of a material change of use of any building or land'.
Discounted market sales housing	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.
Entry-level exception site	A site that provides entry-level homes suitable for first time buyers (or equivalent, for those looking to rent), in line with paragraph 71 of the NPPF 2018.
Essential local workers	Public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers.
Existing Use Value	Existing use value (EUV) is the value of the land in its existing use together with the right to implement any development for which there are policy compliant extant planning consents, including realistic deemed consents, but without regard to alternative uses. EUV is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types. EUV can be established in collaboration between plan makers, developers and landowners by assessing the value of the specific site or type of site using published sources of information such as agricultural or industrial land values, or if appropriate capitalised rental levels at an appropriate yield. Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams' locally held evidence. (PPG paragraph 015, revision date 24.07.2018)

Existing Use Value (plus a premium) (EUV+)	Planning Practice Guidance states that the premium should provide a reasonable incentive for a landowner to bring forward land for development while allowing a sufficient contribution to comply with policy requirements. The PPG does not specify the amount of uplift but states that this will be an iterative process informed by professional judgement and must be based upon best available evidence informed by cross sector collaboration. (PPG paragraph 016, revised 24.07.2018)
Gross development value (GDV)	The total value achieved on sale of the completed development. It is shown before the deduction of any costs or allowances and is simply the total of funds realised on the sale of the completed development.
Housing Delivery Test	Measures net additional dwellings provided in local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November.
Implementation	Implementation of development is taken to be initiated when, in the case of a change of use, the new use is begun, or, in the case of residential development, upon the development being capable of being occupied.
Intermediate affordable housing	Housing at prices and rents above those of Social Rented, but below market price or rents, and which meet the criteria set out above. These can include shared equity (eg Home Buy), other low cost homes for sale and Intermediate Rent but does not include Affordable Rented housing.
Local plan	The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current core strategies or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act. Previously referred to as the Local Development Framework.
Major development	For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m2 or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015. (NPPF 2018 – Annex 2: Glossary)
Market housing	Housing for those households who can afford to pay the full market price to buy or rent their home, i.e. occupied on the basis of price

Market value (MV)	The estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.
Material considerations	Factors which will be taken into account when reaching a decision on a planning application or appeal. Under Section 38 of the Planning and Compulsory Purchase Act 2004, decisions on planning applications 'must be made in accordance with the [development] plan unless other material considerations indicate otherwise'. Material considerations include issues regarding traffic, wildlife, economic impacts and the historical interest of the area (this list is not exhaustive). Issues such as the loss of a view or the impact on property values are not material to planning decisions.
Mixed use developments	Development comprising two or more uses as part of the same scheme (eg shops on the ground floor and residential flats above). This could apply at a variety of scales from individual buildings, to a street, to a new neighbourhood or urban extension.
National Planning Policy Framework **(NPPF or The Framework)**	This document sets out national planning policies for England and the Government's requirements for the Planning System. The policies in the NPPF must be taken into account when preparing Local Plans. The latest NPPF was published in July 2018.
Permitted development	Certain types of minor changes to houses or businesses can be made without needing to apply for planning permission. These changes can be made under "**permitted development rights**". They derive from a general planning permission granted not by the local authority but by Parliament. The permitted development rights which apply to many common projects for houses do not apply to flats, maisonettes or other buildings.
Planning condition	A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990 (as amended)) or a condition included in a Local Development Order or Neighbourhood Development Order.
Registered provider (RP)	Registered providers (RP) are landlords who provide affordable accommodation for rent and/or sale. The way they operate is governed by a government body called Homes England (Previously the Homes and Communities Agency).

Residual land value (RLV)	Land value and referred to as a residual because it is the amount remaining after a calculation that deducts from the GDV (as above) the various costs of development (eg usually comprising of costs including build costs and contingencies, professional fees, site purchase costs, finance costs, developer's profit, marketing and sales expenses). The amount left over (hence 'residual') indicates the land price that can be justified by the calculation and the assumptions used within it.
Section 106 (S106) (Planning obligations)	Legal agreements entered into under Section 106 of the Town and Country Planning Act 1990 (as amended) between a planning authority and a developer, or undertakings offered unilaterally by a developer to ensure that specific works are carried out, payments made or other actions undertaken which would otherwise be outside the scope of the planning permission. Also referred to as Planning Obligations. Section 106 agreements differ to CIL in that whilst they secure monies to be paid to fund infrastructure to support new developments, the agreements are negotiable and not all new development is subject to such agreements.
Self-build and custom-build housing	Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing.
Shared ownership	A form of intermediate tenure low cost home ownership housing. Homes in which the occupier owns a share of the equity and pays rent on the remaining share.
Site Value (SV) (for financial viability assessments for scheme specific planning applications)	Market Value (MV) subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.

Strategic housing market assessment (SHMA)	Evidence study providing a detailed analysis of housing need in a specified area, to inform how local authorities should plan for new housing development. Typically, a SHMA will define housing market areas and provide analysis of housing need, demand and supply both in the market areas and in individual local authority areas or other geographic areas used for planning purposes. It shows how housing need and demand will be translated into requirements for a specific number of homes and for different sizes, types and tenures of homes in each area in future years. SHMAs also identify the key drivers of need and demand for both market and affordable housing, including the affordability of accommodation, the impact of welfare reform, economic growth and the potential effects of other current and emerging policies. The Central Norfolk SHMA (ORS 2015, updated in 2017) covers the wider Norwich housing market area including Norwich city, Broadland and South Norfolk districts and extending into North Norfolk and Breckland.
Social housing	Housing let at lower than market rents to people in housing need. It includes social rent, affordable rent and intermediate housing tenures and is usually provided by not-for profit organisations including housing associations and councils.
Social rented	Social rented housing is housing owned and managed by local authorities and registered providers, for which target rents are determined through the national rent regime. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with Homes England (Previously the Homes and Communities Agency) as a condition of grant.

Starter homes	As specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections: "starter home" means a building or part of a building that: (a) is a new dwelling, (b) is available for purchase by qualifying first-time buyers only, (c) is to be sold at a discount of at least 20% of the market value, (d) is to be sold for less than the price cap, and (e) is subject to any restrictions on sale or letting specified in regulations made by the Secretary of State. A "Qualifying first-time buyer" means an individual who is a first-time buyer, is at least 23 years old, but has not yet reached the age of 40 and meets any other criteria specified in regulations made by the Secretary of State. 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.
Supplementary planning document (SPD)	Guidance published by the local planning authorities to provide further detailed information on how local plan policies are to be applied or interpreted in order to bring forward sustainable development. SPD may be prepared jointly, particularly where a consistent policy approach is required over an area covered by more than one local planning authority.
Viability assessment	An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations/CIL, while ensuring an appropriate site value for the landowner and a market risk adjusted return to the developer in delivering that project.