

Non Statutory Planning Guidance
Adopted 6th September 2006



IMPLEMENTATION OF THE POLICY FOR AFFORDABLE HOUSING



EAST HAMPSHIRE DISTRICT COUNCIL



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1.0 INTRODUCTION

- 1.1 This document sets out the guidance on the implementation of the Council's planning policies on affordable housing in the towns and villages of East Hampshire as set out in the Second Review District Local Plan (March 2006). It updates the Supplementary Planning Guidance adopted on 9th July 2003.
- 1.2 The Council is strongly committed to meeting the pressing need for more affordable housing in the district. The aim of the Council's affordable housing planning policies and this planning guidance note is to ensure the development of balanced and integrated communities, and to deliver good quality affordable housing for local people in housing need for both present and future generations.
- 1.3 This non statutory planning guidance has been prepared in consultation with Housing Associations, County, Parish and Town Councils, landowners and developers. A statement of consultation for this planning guidance is available separately to this document.

2.0 THE POLICY CONTEXT

- 2.1 The East Hampshire District Local Plan (Second Review) was adopted in March 2006. The policies and text relating to the provision of affordable housing, H11 and H12 are attached as Appendix 2.

3.0 THE HOUSING STRATEGY

- 3.1 The Council's Housing Strategy was adopted as "fit for purpose" by the Government in March 2004. The Housing Strategy Action Plan is reviewed regularly in light of policy changes, and sets new targets for a three year period.
- 3.2 Priorities for funding affordable housing, based on national, regional and local strategies are set out in Appendix 3.

4.0 DEFINITION OF AFFORDABLE HOUSING

- 4.1 Affordable housing is defined in the Second Review of the Local Plan as

"housing available over the long term to local households who are not able to meet their own housing needs through buying or renting on the open market".

- 4.2 Affordable housing is non-market housing. It can include social rented housing and intermediate housing (shared ownership, equity share and intermediate rented housing). Key worker housing is included within the definition of affordable housing. However, because it is meeting a distinct need it is only appropriate when it is provided via intermediate housing and should not be provided as an alternative to providing social rented housing. Affordable housing schemes are normally developed and managed by, or in partnership with, Housing Associations as this ensures that dwellings are available to local people in perpetuity.

- 4.3 Affordable housing schemes fall into one of three forms of development:-

a) As a proportion of the overall number of dwellings on appropriate housing sites within settlement policy boundaries, including both those allocated for development in the Local Plan and windfall sites.

b) As independent developments within settlement policy boundaries unrelated to any other proposed development; and

c) As rural exception sites outside settlement policy boundaries.

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5.0 PROCEDURE FOR NEGOTIATIONS

- 5.1 Entering into discussion with the Planning Authority at a very early stage is strongly advised, to establish the policy requirements for affordable housing on a site. This will also increase the likelihood of funding being available for a scheme. Negotiations must take place before the Area Planning Committees consider the planning applications, or schemes will be recommended for refusal. Developers should contact the following officers for a joint discussion of their proposals:
- Housing Development Manager (01730 234340)
 - Area Planning Officer (North) (01730 234237)
 - Area Planning Officer (South) (01730 234236)

6.0 GENERAL REQUIREMENTS FOR ALL AFFORDABLE HOUSING SCHEMES

Meeting Housing Needs

- 6.1 The scheme must meet the proven housing needs of the District. The Council undertakes regular Housing Needs Surveys of the housing needs of East Hampshire; the last full survey was undertaken in 2002, with a desktop update undertaken in 2004. The survey was undertaken in line with Local Housing Needs Assessment: A Guide to Good Practice published by the Office of the Deputy Prime Minister.
- 6.2 The key objectives of the Housing Needs Survey are to:
- assess the level of need for affordable housing in the District
 - identify the need for various types of tenure
 - inform the Council's housing strategy
 - give detailed and up to date analysis of need at a local level to inform and support affordable housing negotiations with planning applications
 - inform affordable housing policies in the Local Plan and assist target setting for site developments
- 6.3 The Housing Needs Survey identifies exceptional local constraints, which face a significant number of local residents. The Housing Needs Survey compared local house prices and the incomes of those seeking new accommodation. The mismatch is exceptional; 86% of emerging (concealed) households have an income level below the necessary level to access the cheapest housing in the local market.
- 6.4 The demand of the emerging households is for the smaller and affordable type of housing. Unfortunately this is the type of stock lacking in East Hampshire. Most recent developments have been large detached dwellings. The Housing Needs Survey has identified that there is a housing need in East Hampshire for 730 affordable dwellings every year. The likely supply of all housing up to 2011 is less than half of this. The policy mechanisms available for securing affordable housing must be therefore be maximised.
- 6.5 The Housing Needs Survey also demonstrates a high number of households who have special needs or mobility problems. In only 34% of cases does someone using a wheelchair inhabit a home that has been adapted for a wheelchair, suggesting a mismatch between houses adapted and those where wheelchair users live. All new housing schemes must be compliant with Part M of the Building Regulations, but the Council will also require suitable affordable housing schemes to include some homes that are fully adapted to wheelchair standards.
- 6.6 Full details of the Housing Needs Survey is available for download from the Council website at <http://www.easthants.gov.uk/ehdc/community.nsf/webpages/Housing+Needs+Assessment>

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- 6.7 The Housing Needs Survey is used in conjunction with the information of actual household demand held on the Council's Joint Housing Register which is annually reviewed and updated, when looking at the mix and tenure requirement for affordable housing schemes. Details of the number of households registered on the Council's Joint Housing Register and information on the size, type and location of actual housing need for the District can be provided.
- 6.8 The Council's Housing Development Manager will recommend a mix of property types and tenures that reflect the local housing needs and the suitability of the site.
- 6.9 The Council is planning to undertake a Housing Market Assessment in 2006.

Size, Type and Standard

- 6.10 The affordable dwellings will be required to be provided to a type, size and standard agreed by the Council. The type and size of dwellings will be expected to reflect the identified local needs.
- 6.11 The dwellings should be suitable for immediate occupation, i.e. fully equipped and decorated, with fenced and landscaped gardens (where appropriate) and their own parking spaces, in accordance with current parking standards.
- 6.12 Dwellings for social rent will be required to comply with the Housing Corporation's Scheme Development Standards published in 2003, in order to obtain funding. The Council will expect all social rented homes to meet the 'essential items' and would encourage the inclusion of as many of the 'recommended items' as possible.
- 6.13 Particularly important is the need to achieve an "Eco Homes Very Good Rating" (see section on energy efficiency/renewable energy).

Range of Tenures

- 6.14 The Council's preferred tenure is affordable homes for social rent. The need for this type of tenure is borne out through evidence from the Council's Joint Housing Register and the Housing Needs Survey.
- 6.15 On all larger sites, the Council will seek a range of tenures, including both social rented and intermediate housing. The mix of tenures will be determined on a site by site basis, depending on local demand, but housing for rent will continue to be the predominant tenure required to help those in greatest housing need. The Council may consider mixed tenures on smaller sites, but this will depend on the site location, the local demand for this type of tenures and the affordability of local incomes to house price ratios.
- 6.16 As the mix and tenure will be decided on a site by site basis, and it is recommended that the Council's Housing Development Manager be contacted at an early stage.
- 6.18 On schemes which include an element of shared ownership housing, the Council will expect the developer to adopt the Housing Corporation's standard provisions for leaseholders to be incorporated in their leases.

Affordability

- 6.19 Control of rent levels is the most effective way of ensuring that homes remain affordable. Social rented housing is subject to guideline target rents determined by the national rent regime, set out in the 'Guide to Social Rent Reforms' published in March 2001. Social rented housing requires some

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form of subsidy to achieve these rent levels, which can be in the form of a reduced land value, Social Housing Grant or a developer contribution, or a combination of these.

- 6.20 Intermediate housing is at prices above social rented housing but below market prices or rents. This can include shared ownership/equity sale or intermediate rent. The Council will insist that intermediate housing products are affordable to local people in housing need, before agreeing to their inclusion within an affordable housing scheme. The Council collects data on local incomes and house prices/market rents, to establish the income levels required to access the local housing market. This will be used to assess the affordability of intermediate products, based on mortgage and rental costs equating to no more than 30% of gross income of households unable to access the open market.

Affordable Housing Providers

- 6.21 Housing Associations or Registered Social Landlords are defined by the 1996 Housing Act and are regulated by the Housing Corporation. The Council will encourage the development and management of affordable housing schemes by or in partnership with Housing Associations, as this ensures that dwellings are available to local people in perpetuity, and funding can be sought to ensure that the housing meets local need.
- 6.22 The Housing Act 2004 enabled Social Housing Grant to be paid to non-Register Social Landlords. In order to obtain grant funding these affordable housing providers must meet a variety of criteria set by the Housing Corporation, and become an 'accredited' body in order to manage homes.
- 6.23 In October 2003, the Council selected "preferred partner" Housing Associations. Each partner has been selected on a range of skills that will assist the Council to meet the objectives and targets of its Housing Strategy. These include high quality development, management and community development services. The partner Housing Associations are Drum Housing Association, Kingfisher Housing Association, Swaythling Housing Society, Warden Housing and Winchester Housing Group. Contact details are listed in Appendix 4. The Council works with its preferred partners in deciding who is most appropriate to work on developments based on their location, links with existing housing schemes, availability of funding, performance and capacity. This preference will be advised to developers.
- 6.24 The Council regularly monitors the performance of these Housing Associations, and any affordable housing provider that wishes to work in the area will be required to meet the equivalent standards of the preferred partners, and demonstrate the added value that they would bring to a neighbourhood. The Council is also concerned to assist with the Housing Corporation's stock rationalisation programme and will have regard to this in its consideration of affordable housing providers.
- 6.25 The Council is one of six rural local authorities in Hampshire who has formed the Hampshire Alliance for Rural Affordable Housing (known as HARA). The role of the Hampshire Alliance for Rural Affordable Housing partnership is to maximise affordable housing in rural villages across Hampshire. Hampshire Alliance for Rural Affordable Housing is both an operational and strategic partnership, and has selected Hyde Housing Association as its appointed partner to deliver the objectives of the partnership. This includes working with parish councils to develop and manage affordable housing schemes on rural exception sites in the District.

Occupancy Criteria

- 6.26 The Council will negotiate with applicants to secure planning conditions or a legal agreement (Section 106 Planning Obligation) to ensure that the affordable housing is available in continuity for local people who need to stay in the area, but who cannot afford to rent or buy a home locally on the open housing market.

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- 6.27 Where occupancy criteria for local people are included as part of a planning condition or planning obligations, a cascade approach may be used. This should ensure that occupants will always be found for any accommodation, thus safeguarding an adequate stream of revenue for those managing the development (and thus enabling loans to be raised for the development), whilst ensuring that people in local housing need take priority.

Minimum Space Standards

- 6.28 The Council's minimum space standards recommended for affordable housing are set out below.

Dwelling Type	1 bedroom flat	1 bedroom house	2 bedroom flat	2 bedroom house	3 bedroom house	4 bedroom house
Minimum size	45sq.m	51sq.m	65sq.m	76sq.m	86sq.m	101sq.m

Design

- 6.29 Any scheme permitted will be expected to be a quality development and of a high design standard; in keeping with its surrounding environment, in accordance with Policy HE1 of the adopted Second Review Local Plan. The Council will require the submission of a Design Statement with all planning applications for affordable housing. The document 'Design Statements: Guidance Notes for Applicants and Agents' sets out what is expected and is available from the Council's Planning Development Services.
- 6.30 The Council will insist that any scheme permitted under the relevant policies should make use of good quality materials. The use of cheaper materials and designs to obtain lower cost units is unacceptable.
- 6.31 Housing Associations will be encouraged to implement new forms of construction, e.g. timber frame, off site or modular construction. This affects the chances of obtaining social housing grant for schemes, as it features as a government priority for investment.
- 6.32 Affordable Housing Schemes must aim to achieve 'Secure by Design'. Secure by Design supports one of the Government's key planning objectives "the creation of secure, quality places, where people want to live and work". Details of how to contact a Police Architectural Liaison Officer and view standards, can be found at www.securebydesign.com.

The Environment

- 6.33 Environmental acceptability will be a dominant influence when determining applications for affordable housing. The Council recognises that in some instances, in order to protect and maintain the high environmental quality of East Hampshire, schemes may need to be reduced in size and scale even though there is a proven need for a greater number of affordable dwellings.
- 6.34 In addition, the scheme should be well related to the scale and character of the settlement and be capable of being supported by the facilities available in the settlement (for example, shop, school, public house, public transport). Schemes permitted on the edge of the larger settlements should aim to enhance the appearance of the settlement and its surroundings and should be conveniently located to public transport and local services and facilities.

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Developer Contributions

- 6.35 A 'Guide to Developers' Contributions and other Planning Requirements' has been produced by the Council setting out the Council's adopted policies for developers' contributions to infrastructure, open space and community and amenity facilities. All schemes, including affordable housing schemes, are expected to meet these requirements.

Open Space

- 6.36 The development must comply with the open space standards set out in Policy R3 of the adopted Second Review of the Local Plan.

Parking and Cycle Storage

- 6.37 The development must comply with car parking standards as set out in the 'Hampshire Parking, Strategy and Standards (subject to the caveat agreed by the Cabinet of East Hampshire District Council on 1 May 2002 that the prime determining factor in all parking assessment should be the accessibility of the site to alternative means of transport. It is therefore considered that the Hampshire County Council standard of an average of 1.5 spaces per dwelling to be achieved across the district is unacceptable because it is an unviable proposition taking into account declining public transport services in the district).

Energy Efficiency/Renewable Energy

- 6.38 The Council promotes energy efficient housing. It is important to minimise the running costs of a home to the occupier and to use sustainable materials and construction methods to reduce CO2 emissions.
- 6.39 Housing Associations will be expected to adopt the principles and objectives of the Housing Corporation's Sustainable Development Strategy and will seek to increase the energy efficiency of all new developments. In addition, the Council will expect improved efficiency in the use of natural resources in the development of new homes.
- 6.40 Housing Associations must comply with the essential Tests of Compliance as specified in the Scheme Development Standards 2003 (or whatever Housing Corporation document gives the latest). A "very good" rating under the Eco Homes Standard is compulsory for all schemes which will be funded with Social Housing Grant. The standard covers seven key areas: energy use, transport, pollution, materials, water, land use and ecology and health and wellbeing. A very good rating is compulsory but the Council would like Housing Associations to strive for the highest rating.
- 6.41 The Building Research Establishment Standard Assessment Procedure 2005 edition (or whichever Building Research Establishment document gives the latest guidance) must be used to provide a calculation of the energy performance of each dwelling. Affordable housing providers should aim for a Standard Assessment Procedure rating of at least 65 on all properties. In buildings which cannot be assessed using the Standard Assessment Procedure (certain types of multi-residential buildings), affordable housing providers must provide evidence that energy efficient measures have been incorporated cost-effectively.
- 6.42 All affordable housing providers will be expected to produce dedicated leaflets for residents on energy use in their home.

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Refuse and Recycling Provision

- 6.43 Provision for the storage of containers for refuse and recyclable materials should take into account likely future requirements and should be conveniently located for users and for the collection without detracting from the amenities or the visual appearance of the scheme. Wherever possible, containers should be located within individual curtilages. In some cases, eg, flats and schemes where amenity space is shared, waste and recycling bins could be provided in a single shared facility.

7.0 SPECIFIC REQUIREMENTS FOR AFFORDABLE HOUSING WITHIN SETTLEMENT POLICY BOUNDARIES.

Policy H11: Affordable Housing within Settlement Policy Boundaries

- 7.1 **Planning permission will be granted for residential development within Settlement Policy Boundaries, provided that, on sites which fall within the prescribed site size thresholds, the proposed development includes a proportion of affordable housing as agreed between the Council and the applicant on a site-by-site basis in the light of proven local need, location and particular site characteristics. The affordable housing should be available for local people in proven housing need for as long as that need continues.**

Site Size Thresholds

- 7.2 The Council will use Policy H11 to negotiate with developers to ensure that a proportion of all new housing built on housing sites complying with the criteria set out below, is affordable housing. The Council believes that there are exceptional local constraints to providing adequate levels of affordable housing in East Hampshire, and it believes there is justification to negotiate an element of affordable housing with the developer on the following sites:
- i) In settlements with a population of more than 3,000, developments of 15 dwellings or more, or sites of 0.5 hectare or more;
 - ii) In settlements with a population of 3,000 or less, developments of 5 dwellings or more or sites of 0.15 hectare or more.

The settlements where each of the site size thresholds will be applied are listed in Appendix 5.

- 7.3 Settlements not listed in Appendix 5 are not considered sustainable or do not have a built form which is easily defined and therefore do not have a settlement policy boundary. They will not normally be appropriate locations for residential development. In the few cases where a development site comes forward outside such a settlement and it is suitable for housing development then the whole site will be developed for affordable housing under Policy H12.
- 7.4 In some circumstances, residential conversion of existing buildings outside of the settlement policy boundary may take place. In this case, the lower affordable housing site size threshold will be applied (see ii above).

Affordable Housing Requirement

- 7.5 The Council will not apply a rigid formula to the provision of affordable dwellings but would expect to achieve 35% affordable housing on any site meeting the Council's site size thresholds, where there is a proven need.

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- 7.6 The site size thresholds and the percentage of affordable housing are supported by the 2002 Housing Needs Survey. Where the Council considers that intermediate tenures are appropriate to the site they are included within the overall percentage of affordable housing.
- 7.7 This target will be the baseline for negotiations for affordable housing on suitable housing sites. Where a developer considers that this requirement significantly affects the viability of residential development on a site, an “open book” approach will be taken to establish the extent of this case based on a residual valuation methodology.
- 7.8 In many cases, when calculating how many dwellings the 35% target number of affordable dwellings on a site represents, the outcome will not be a whole number. Where the calculation results in a residual of 0.5 or more of a dwelling, the number of dwellings should be rounded up to the nearest whole dwelling, and where it results in a residual of less than 0.5 of a dwelling it should be rounded down to the nearest whole dwelling.

The ‘Planning Gain’ Requirement

- 7.9 When negotiating on sites for a proportion of affordable housing, the contribution that the Council will seek from the developer is the provision of the affordable housing land fully serviced to the site boundary for free.
- 7.10 Serviced land includes provision of all services (electricity, gas, water, sewerage, telephone, lighting etc) to the site boundary necessary for development, connection costs, infrastructure (roads, footpaths, boundary walls etc), and demolition, decontamination and archaeological costs and site clearance where applicable. Services must be provided to the edge of the land and there must be no legal, physical or financial barrier (i.e. unencumbered access) to the servicing of the land by the builder constructing the affordable housing.
- 7.11 In cases where the developer is to build the affordable homes, rather than just transfer the land for free, the Council will expect the planning gain to be demonstrated by the cost that the developer charges the affordable housing provider for the built units. The price should reflect build costs (rather than the value of the dwellings) and exclude the value of the clean serviced land. A benchmark for this will be quoted to developers by the Housing Development Manager, using regularly updated information from the Building Construction Industry Standards and registered social landlords build costs.
- 7.12 The Council follows an “open book” approach to valuations and development economics on affordable housing schemes where developers do not meet the requirements of the affordable housing policy. In these cases the applicants should be prepared to discuss the various cost components of their schemes with the Council.

Sustainable Integrated Communities

- 7.13 On sites where an element of affordable housing is appropriate, it should be provided within the site. This supports the creation of balanced sustainable communities. Normally the affordable housing element of a site should be of a similar size and character to the market housing on the site, unless this does not reflect the local need.
- 7.14 The Council believes that to create integrated communities the affordable homes should be indistinguishable from market housing and distributed individually or in small groups of no more than 4 dwellings, throughout the development. Small clusters of affordable housing will only be permitted where it is demonstrated to be essential to ensure high standards of estate management and maintenance.
- 7.15 On larger sites, the Council will negotiate a phased release of affordable housing to ensure an even distribution of social mixing. This will be secured by way of a Section 106 Agreement which will

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include appropriate triggers to deliver the affordable housing which is linked to occupation of open market sales.

- 7.16 'Off-site' provision will only be considered acceptable in the following exceptional circumstances:
- Where alternative provision is proposed that would allow priority housing needs to be better met, or:
 - Where provision 'on-site' would necessitate an unacceptable level of alteration to a listed building
- 7.17 In the exceptional cases where off-site provision is acceptable, a developer will be expected to make the equivalent contribution of an agreed number, size and type of affordable dwellings on a different site (or sites) elsewhere in the relevant Parish. This should be provided on the same basis as if it had been provided on site, ie, free clean serviced land with planning consent for residential development or suitable buildings at build cost excluding the land value. Where it is agreed that it is not possible to provide an alternative site or buildings, then the Council will seek a level of financial contribution that will actually result in the provision of affordable housing elsewhere in the relevant Parish. The sum involved must be adequate to ensure that affordable housing can be provided in that location. The financial contribution must therefore be equivalent to the unconstrained open market residential land value for the number of affordable dwellings required (had they been provided on site). The Council will assess the cost of acquiring an alternative site for the affordable housing provision using current land valuations in the area.

Availability of Funding

- 7.18 Schemes will need to meet the identified local housing needs; therefore developers will need to have regard for the availability of funding for affordable housing and the way in which sites are prioritised for funding (see Appendix 3).
- 7.19 In the event that funding is not forthcoming for a scheme the Council will negotiate with the affordable housing provider to forward fund the scheme. The Council aims to ensure that a lack of public subsidy does not hold up the open market housing development. A cascade mechanism may therefore be incorporated into the section 106 Agreement. This will allow the tenure mix of the affordable housing provision to be altered to a scenario where it is possible to meet the target provision without grant (usually limited to 50% social rented and 50% intermediate tenures).

8.0 SPECIFIC REQUIREMENTS FOR AFFORDABLE HOUSING OUTSIDE SETTLEMENT POLICY BOUNDARIES

- 8.1 The Local Plan provides sufficient land for new housing to meet the likely housing requirements of the District as set down in the Structure Plan. Most of the new housing land is located in the towns and larger villages. However, the Council recognises that limited opportunities should also be provided to enable residents to remain in their settlement when they would otherwise be unable to afford to do so.

Policy H12: Affordable Housing outside Settlement Policy Boundaries

- 8.2 Planning permission for residential development outside settlement policy boundaries will not be permitted unless it would provide affordable housing for local people who are unable to obtain accommodation on the open market and:**

a. there is a proven need for it;

b. the need cannot be met within the Settlement Policy Boundary;

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c. the development is economically viable and sound and will provide affordable housing for all time for local people in proven housing need who cannot afford to rent or buy a dwelling locally on the open housing market;

d. the development site is accessible by public transport, walking or cycling to local services and facilities sufficient to support the new residents and provide for their daily needs;

e. the development is of a high standard, is well related to the scale and character of an adjacent settlement, and will not harm the appearance of the settlement and its surroundings; and

f. Its layout, design and construction incorporates measures to optimise energy efficiency;

All six pre-conditions will need to be satisfied before permission is granted.

Applicants will be required to ensure that any dwellings permitted under this Policy will always be available as affordable housing for local people who cannot afford to rent or buy a home locally on the open housing market. This should be achieved through an appropriate legal agreement with the District Council.

- 8.3 The range of sites, which may be considered suitable for affordable housing schemes, will be very limited. Under the Policy, the site should ideally adjoin or be within the existing built up area of the settlement, although in the case of some dispersed villages (such as Ropley and Medstead) this may not always be possible. The development of affordable housing on the periphery of settlements covered by Policy H12 will only be granted where there is little prospect of sufficient affordable housing coming forward from housing allocations and other commitments within that settlement.
- 8.4 On rural exception schemes the Council expects the land value which the developer pays for the site to be low, in the region of 10% of the residential development land value.
- 8.5 To ensure affordability for low cost home ownership options on rural schemes, dwellings will only be sold on a fixed shared equity basis (determined by local income levels).
- 8.6 Housing Associations will be required to enter into a legal agreement with the Council to ensure that the units remain affordable and available for local people in housing need for all time.
- 8.7 It is important that any proposal for affordable housing has the general support of the relevant parish council and the local community. Early discussions with the parish and District Councils will be necessary, as well as nearby residents being consulted. The consideration of affordable housing in Village Appraisals and Village Design Statements is encouraged. This will help ensure that the right site is chosen, the design and development suits the settlement and that the particular housing needs of the settlement are understood and met.
- 8.8 The Council jointly funds two Rural Housing Enabler posts in the County. The role of the Rural Housing Enabler are to:
- raise awareness of the need for affordable housing
 - work with parish councils and rural communities
 - undertake housing needs surveys
- 8.9 The Council will expect Parish Housing Need Surveys to be completed by the Rural Housing Enabler in the relevant parish before affordable housing can be developed under the Rural Exceptions Policy.

APPENDICES

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APPENDIX 1 - GLOSSARY OF TERMS

Affordable Housing: Housing available over the long term to local households who are not able to meet their own housing needs through buying or renting on the open market.

Social rented housing: Rented housing owned by Housing Associations for which guideline target rents are determined through the national rent regime. Also rented housing owned by other persons and provided under equivalent rental arrangements, as agreed with the local authority or funded with grant from the Housing Corporation.

Key Worker Housing: Those groups eligible for Housing Corporation funded Key worker Living programme and others identified by the Regional Housing Board for assistance.

Intermediate Housing: Housing at prices or rents above those of social-rent but below market prices or rents. This can include shared equity products (for example HomeBuy) and intermediate rent (i.e. rents above social rented level but below market rents).

Housing Strategy: A document that looks at housing-related issues in a local authority's area sets out what the local authority wants to achieve. It will also establish priorities for action both by the local authority and by other organisations who may be involved and sets out a clear action plan in agreement with the council's local partners.

Housing Associations: A Housing Association is an organisation that has a form of constitution that will meet the statutory requirements of Section 2 of the Housing Act 1996. This specifies that a Housing Association must:

- not trade for profit; and
- be a charitable or non-charitable industrial and provident society, a registered charity which is a housing association (as defined by Section 1 of the Housing Association's charitable or non-charitable company limited by guarantee, or a company limited by shares; and
- In the case of an industrial and provident society or non-charitable company, have objects that comply with Section 2(2) of the Housing Act 1996. (Housing Corporation website)

Housing Corporation Scheme Development Standards 2003

The Scheme Development Standard sets out the Housing Corporation's requirements and recommendations for all housing projects which receive Social Housing Grant. It is a guide for Housing Associations and their consultants. It is also the basis upon which the Corporation will assess Housing Associations' performance on developing housing projects.

Eco Homes Standards: Ecohomes is an environmental rating for homes. This straightforward, flexible and independently verified assessment method seeks to improve the overall environmental performance of new and existing homes. Four ratings can be achieved for Pass, Good, Very Good and Excellent.

Local connection: Under Policy H11 "local" means housing people who initially have connections or have had previous connections with the settlement or parish. Consideration may then be given to the adjoining parish and finally the wider district. Under Policy H12 "local" means housing people who have connections or have had previous long standing connections with the settlement or parish and this should normally continue with the re-lets.

Social Housing Grant: Funding made available to Registered Social Landlords from the Housing Corporation for the delivery of social housing

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Housing Market Assessment: An assessment that estimates housing need and demand in terms of affordable and market housing. It will determine how the distribution of need and demand changes across the district. It will also identify the particular accommodation needs and demands of specific groups.

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APPENDIX 2 – Adopted Local Plan policies and accompanying text on affordable housing

Introduction

The price of housing in the District and the relative scarcity of housing for rent mean that a significant proportion of households are excluded from the open housing market. The Council will enable more of these households to meet their housing needs through a number of approaches, these include:

- a. negotiating to ensure the provision of affordable housing on all appropriate residential developments within settlement policy boundaries under policy H11.
- b. encouraging the provision of affordable housing at appropriate rural exception sites under Policy H12;
- c. encouraging the conversion of appropriate dwellings into houses in multiple occupation
- d. encouraging the subdivision of existing dwellings into smaller and less expensive housing;
- e. encouraging the reuse of space above shops for housing;
- f. encouraging private landlords to provide more rented property;

By enabling the provision of affordable housing the Council is helping those in greatest need of housing and those least able to purchase or rent open market housing. Affordable Housing means housing available over the long term to local households who are not able to meet their own housing needs through buying or renting on the open market. The Councils' Housing Needs Surveys have proven that the best way of meeting the needs of these people is in rented affordable housing normally provided by a Registered Social Landlord, usually a Housing Association. The Council recognises that there is a limited role for alternative tenure types such as intermediate renting, shared ownership, low cost market and an element of key worker housing where appropriate housing. Whilst such alternative tenure types need not be provided by a Registered Social Landlord, arrangements must be made to ensure that the benefit of such housing should not be restricted to the first occupiers, but should normally be retained for occupants in housing need.

The Council undertakes a comprehensive District wide survey of housing need every 3 to 4 years, and in September 2002 the fifth survey since 1989 was undertaken. The latest survey, called the Housing Needs Survey 2002, was carried out by consultants and looked at income, house prices and other local data in order to assess the overall picture of housing and its affordability. It is important that this information is regularly updated, therefore further Housing Needs Surveys will be undertaken during the Plan period. The detailed results of the Housing Needs Survey are important but will change over the plan period as further Surveys are completed. The Council's Housing Team should be contacted for details of the latest Housing Needs Survey..

The 2002 Housing Needs Survey confirms a number of important issues which the Council must address in order to seek to balance the housing market:

* House prices in East Hampshire are generally higher than average than those in both Hampshire and the South East region;

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* The number of households in housing need significantly exceeds the target provision of affordable housing.

* larger dwellings dominate the dwelling stock of the district, whilst the need is for smaller dwellings.

* Only a small proportion of those households in housing need are registered on the Joint Housing Register.

The issues raised by the 2002 Housing Needs Survey together with other local factors indicate to the Council that there are exceptional local constraints to meeting the housing needs of the district through the provision of affordable housing. The Council will therefore seek to maximise all opportunities to provide affordable housing to meet this need.

In view of the scale of the identified need for affordable housing, the District-wide target for the provision of affordable housing during the plan period is 1000 units, i.e. 100 per annum. This is a net figure excluding re-lets of existing stock and so this level will have to be met on sites coming forward in the following way - as an element of affordable housing on the larger housing sites under Policy H11; on sites outside settlement policy boundaries under Policy H12; and other sites coming forward solely for affordable housing within settlement policy boundaries,

Affordable Housing within Settlement Policy Boundaries

Policy H11

Planning permission will be granted for residential development within Settlement Policy Boundaries, provided that, on sites which fall within the prescribed site size thresholds, the proposed development includes a proportion of affordable housing as agreed between the Council and the applicant on a site-by-site basis in the light of proven local need, location and particular site characteristics. The affordable housing should be available for local people in proven housing need for as long as that need continues.

The District Council will negotiate with applicants to secure a legal agreement to ensure that the affordable housing is available in continuity for local people who need to stay in the area, but who cannot afford to rent or buy a home locally on the open housing market.

On larger housing developments where affordable housing units will be provided, a range of tenures should be promoted, including affordable housing for rent, shared ownership, an element of housing for key workers where appropriate and intermediate rented housing. The mix of tenures will be determined on a scheme by scheme basis, depending on local demand, but housing for rent will continue to be the predominant tenure required to help those in greatest housing need.

National site size thresholds allow local planning authorities to seek to negotiate suitable elements of affordable housing on housing sites in accordance with the site size thresholds of 25 dwellings or 1 hectare, as stated in Circular 6/98. The District Council considers that there are exceptional local constraints to achieving adequate amounts of affordable housing in all the larger settlements (more than 3,000 population) to justify reducing the site size thresholds to 15 dwellings or 0.5 hectare sites. Within Special Housing Character Areas covered by Policies H9 and H10, the national site size thresholds will continue to apply.

Within Settlement Policy Boundaries of rural settlements with a population of less than 3,000 the exceptional local constraints on achieving adequate amounts of affordable housing are even greater because of the scarcity and size of available sites. It is considered that there is justification for reducing the site size thresholds in rural settlements to sites relating to proposals for at least 5

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dwellings or at least 0.15 hectare in size. The District Council will monitor the amount of affordable housing being provided in these settlements to ensure that the reduced thresholds continue to be justified. Housing need data is regularly updated through the Joint Housing Register, available from the Council's Housing Team. The Provision of this data is an important part of continuing to justify reducing site size thresholds in particular settlements during the plan period.

The element of affordable housing sought on Policy H11 schemes will be determined on a site by site basis taking into account site and market conditions. In this respect, affordable housing is best sited on land that is well served by public transport and is convenient to local facilities and services.

On Policy H11 sites where an element of affordable housing is appropriate it should be provided within the site. In exceptional cases, where the District Council and the developer both consider that a financial contribution would be more appropriate than 'on-site' provision of affordable housing at any particular Policy H11 site, then the District Council will seek a level of financial contribution that will actually result in the provision of affordable housing (whether via new build or conversion) within East Hampshire. Affordable housing is appropriate on all housing sites that meet the Government's criteria set out in paragraph 10 of Circular 6/98.

Where both the District Council and the developer agree that an element of affordable housing would be appropriate for a policy H11 site, but that it would be preferable for the provision to be off site, a payment in lieu in the form of a developer contribution will be considered. The sum involved must be adequate to ensure that affordable housing can be provided elsewhere, as required by paragraph 22 of Circular 6/98. This payment will be spent on providing affordable housing in East Hampshire. The District Council will use a consistent method for calculating the sum based on 100 percent of Housing Corporation Total Cost Indicators. These are updated every year and take account of the location, type and size of property and maximum rent levels that a Registered Social Landlord can charge in the District. The Total Cost Indicators tables give "benchmark" costs for development based on average costs for land, building and for all on-costs. The use of these nationally agreed and locally relevant Total Cost Indicators tables provide a reasonable methodology for calculating developer's contributions in lieu of affordable housing. Details of the formulas and actual numbers can be obtained from the Council's Housing Enabling Manager and will be published in the "Guide to Developers Contributions".

Affordable Housing outside Settlement Policy Boundaries

Policy H12

Planning permission for residential development outside settlement policy boundaries will not be permitted unless it would provide affordable housing for local people who are unable to obtain accommodation on the open market and:

- a. there is a proven need for it;**
- b. the need cannot be met within the Settlement Policy Boundary ;**
- c. the development is economically viable and sound and will provide affordable housing for all time for local people in proven housing need who cannot afford to rent or buy a dwelling locally on the open housing market;**
- d. the development site is accessible by public transport, walking or cycling to local services and facilities sufficient to support the new residents and provide for their daily needs;**
- e. the development is of a high standard, is well related to the scale and character of an adjacent settlement, and will not harm the appearance of the settlement and its surroundings; and**

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f. Its layout, design and construction incorporates measures to optimise energy efficiency.

All six pre-conditions will need to be satisfied before permission is granted.

Applicants will be required to ensure that any dwellings permitted under this Policy will always be available as affordable housing for local people who cannot afford to rent or buy a home locally on the open housing market. This should be achieved through an appropriate legal agreement with the District Council.

The District Council is very aware of the changes which have taken place in home ownership in the District and particularly in the more rural settlements. Opportunities should be provided to enable residents to remain in their village, for example, by providing low-cost housing for the young and low income groups or specialist accommodation for the elderly. Although the Council considers it has allocated sufficient land to meet most of the likely housing requirements of the District, it acknowledges that it may not always be possible for this to be achieved. If the District Council can be satisfied that there is a genuine need for land to be released for housing development outside a Settlement Policy Boundary to meet the needs of a particular community, then the District Council may be prepared to grant planning permission under Policy H12.

The development of affordable housing on the edge of settlements or within rural villages under Policy H12 will only be granted when there is little prospect of sufficient affordable housing coming forward from Policy H11 sites and committed sites to meet a specific local housing need.

When considering sites under Policy H12 the District Council will need to be satisfied by way of a recent relevant housing needs survey or through the Joint Housing Register and Empty Homes Register that there is a need for affordable housing in the settlement concerned. The District Council will also need to be satisfied that the people expressing a need to live in the settlement:

- a. are unable to afford open market housing which is for rent or sale within the settlement;
- b. have previously been closely connected with the settlement through work or residence; or
- c. have a real need to live in the settlement in order to continue their work or in order to look after/be looked after by a close relative (e.g. grandparent, brother, sister, son or daughter).

The range of sites which may be considered suitable for low cost housing schemes under Policy H12 will be limited. Ideally the site should adjoin the existing built-up edge of the settlement, although in the case of some dispersed villages this may not always be possible.

General market housing or mixed development consisting of high value housing used to cross-subsidise affordable housing on the same site is inappropriate and will not be permitted on schemes considered under Policy H12.

Any scheme permitted under Policy H12 should be well related in terms of scale, appearance and character to the settlement and be capable of being supported by the facilities available in the settlement (e.g. shop, school, public house, public transport). The size of the scheme will vary with the size of the settlement concerned and the extent of housing need identified, in accordance with the District Council's document 'Implementation of the Policy for Affordable Housing'. Any new homes permitted should also be capable of being serviced by the community they will join.

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The Implementation of Affordable Housing

The District Council will need to be satisfied that homes permitted under Policies H11 and H12 will be available for local people who are in need for as long as that need continues. On schemes permitted under Policy H11 the District Council will negotiate with applicants to secure an appropriate Section 106 Obligation or other legal agreement to control the occupancy of the homes. The District Council recognises that there is a limited role for alternative tenure types such as intermediate renting, shared ownership and an element of key worker housing where appropriate. Applicants will be required to enter into a Section 106 Obligation or other legal agreement to control the occupancy of the homes permitted under Policy H12.

Where occupancy criteria are included as part of condition or planning obligations, a cascade approach may be preferable. This should ensure that occupants will always be found for any accommodation, thus safeguarding an adequate stream of revenue for those managing the development (and thus enabling loans to be raised for the development), whilst ensuring that people in local housing need take priority. Under this approach the eligibility criteria would be restricted to local people. Under Policy H11 “local” in this context means housing people who initially have connections or have had previous connections with the settlement or parish. Consideration may then be given to the adjoining parish and finally the wider district. Under Policy H12 “local “ in this context means housing people who have connections or have had previous long standing connections with the settlement or parish and this should normally continue with the re-lets.

Design of and Energy Efficiency in Affordable Housing

Any scheme permitted under Policies H11 and H12 should be of a high design standard and make use of good quality materials. The scheme should be designed to fit in and complement the existing settlement, it should not detract from it. It is recognised that many registered social landlords recognise “fuel poverty” as a problem for their tenants and are at the forefront of incorporating energy optimisation features in their housing, recognising the longer term benefits which can be achieved. The District Council would expect to see energy optimisation as a feature of all affordable housing permitted under Policies H11 - H12. In the past, cheaper materials and designs have been argued for in order to obtain lower cost units; in this case the Council expects the land price paid to be the low cost element of the scheme.

Non Statutory Planning Guidance on Affordable Housing

Further detail on the implementation of Policies H11 & H12 can be found in the District Council's non statutory planning guidance documents 'Implementation of the Policy for Affordable Housing', and 'Guide to Developers' Contributions and other Planning Requirements', both of which are revised annually.

IMPLEMENTATION OF THE POLICY FOR AFFORDABLE HOUSING

APPENDIX 3 – PRIORITISING AFFORDABLE HOUSING SITES FOR FUNDING

Funding decisions, made through the South East Regional Housing Board, will mean that schemes prioritised for funding will have to meet a regional, as well as a local priority. The priorities identified in the 2006 – 2009 South East Regional Housing Strategy are to:

- build more affordable homes
- bring decent housing within reach of people on low incomes
- improve the quality of new housing and of existing stock

To achieve this, the Regional Housing Strategy outlines its plans for investment to

- tackle the undersupply of affordable housing, in particular, social rented housing
- build thriving and sustainable communities
- ensure that existing socially rented homes are made decent by 2010.

The Council will retain a strategic responsibility for housing and will be working with the Regional Housing Board to ensure local schemes receive grant funding. The Council's key aims in its housing strategy mirror regional priorities and these will be considered when prioritising schemes:

- 1) Meeting the needs of affordable housing
- 2) To help key workers access accommodation
- 3) To reduce homelessness and rough sleeping
- 4) To meet the needs of those who require supported housing
- 5) To meet the needs of Black and Minority Ethnic People
- 6) To improve the suitability of the housing stock
- 7) To promote regeneration and neighbourhood renewal
- 8) To encourage the development of a sustainable rural area, including developing new affordable housing.
- 9) To support crime reduction through housing provision

The key aspect to securing funding will be delivery. Sites that are in the ownership of the Housing Association and have planning approval are more certain to deliver new affordable housing than those which do not. The quality of the housing association and whether it is a preferred partner will also be considered.

The Council would like to encourage innovation and wider community benefits and will look at whether or not the proposal incorporates things such as:

- 1) Alternative methods of construction including off-site
- 2) Environmental factors such as energy efficient homes and renewable energy
- 3) A residential road layout where the design gives pedestrians priority over vehicles.
- 4) Community development opportunities

The Housing Corporation also has national output targets, set by Government, and its role is to ensure that regional priorities are addressed whilst at the same time deliver on national targets and policy objectives. The national targets are:

- Achieving better value to increase housing supply
- Achieving value through the planning system
- Promoting sustainable communities
- Meeting the housing needs of black and minority ethnic communities
- Meeting needs for rural housing

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- Meeting the needs of vulnerable people
- Regeneration and market renewal
- Commercial to residential
- Tackling overcrowding
- High Density Development
- Growth Areas

The National Affordable Housing Programme 2006-2008 Prospectus provides detail of how the Housing Corporation expects to meet the national policy objectives.

APPENDIX 4 – List of Preferred Housing Associations and contact details

Drum Housing Association

Drum Court
The Spain
Petersfield
Hants GU32 3NG

Kingfisher Housing Association

Chailey Court
25-27 Winchester Road
Basingstoke
Hants RG21 8UE
Tel: 01256 302315 nicola.jane@kha.org.uk
Contact: Nikki Jane

Swaythling Housing Society

Collins House
Bishopstoke Road
Eastleigh
Hants SO50 6AD

Warden Housing

6-8 Hampshire Terrace
Portsmouth
Hants PO1 2QF
Contact: Shuab Ahmed

Winchester Housing Group

33 Staple Gardens
Winchester
Hants S023 8SR
Tel: 01962 828838 chris.williams@whgroup.org.uk
Contact: Chris Williams, Development Director

Hyde Housing Association – Rural (HARAH)

63 St Mary Street
St Mary's
Southampton S014 1NU
Tel: 02380 836850 ursula.bennion@hyde-housing.co.uk
Contact: Ursula Bennion, Assistant Director of Development

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APPENDIX 5 - Large and Small Settlements with Settlement Policy Boundaries

Settlements with over 3,000 population.

Alton
Four Marks (including land to the north of the railway line)
Liss (including West Liss and Hill Brow)
Petersfield (including Sheet)
Liphook
Whitehill/Bordon
Clanfield
Horndean (including Lovedean)

Settlements with less than 3,000 population.

Arford
Beech
Bentley
Bentley Station
Bentworth
Blackmoor
Blendworth
Binsted
Bramshott
Bucks Horn Oak
Buriton
Catherington
Chawton
East Meon
East Worldham
Grayshott
Greatham
Griggs Green
Headley
Headley Down
High Cross
Holt Pound
Holybourne
Kingsley
Lindford
Liss Forest
Medstead
Passfield Common
Ropley
Ropley Dean
Rowlands Castle
Selborne
Steep
Stroud
Upper & Lower Farringdon
Upper Froyle

The remaining settlements in East Hampshire that do not have a settlement policy boundary are all under 3,000 population.

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APPENDIX 6 – Checklist for Developers

1.	Contact Housing Development Manager/Area Planning Officer at an early stage, to establish the policy requirement for affordable housing on the site based on settlement size	
2.	Proposed scheme must meet the proven needs of the area – request type, size, tenure, and standard of dwellings required from Housing Development Manager	
3.	Establish if scheme meets with priorities for funding with Housing Development Manager	
4.	Establish the preferred affordable housing provider via discussion with the Housing Development Manager	
5.	If a rural site, discussion with town or parish councils, and inform nearby residents.	
6.	Confirm distribution of affordable housing on site plan acceptable in relation to guidance requirements, and phasing if applicable with Housing Development Manager	
7.	If a rural site, ensure involvement of Rural Housing Enablers	
8.	Confirm to Housing Development Manager that the planning gain is free serviced land (through land transfer agreement or price per sqm agreed with affordable housing provider)	
9.	Produce a ‘design guide’ for submission with the planning application	
10.	Ensure compliance with open space, highway, transport, parking and cycling standards and refuse and recycling requirements and eco homes ‘very good’ standard	
11.	Heads of Terms of Section 106 agreement to be agreed prior to planning application submission	

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APPENDIX 7 – Model Section 106 Agreement

Dated _____ 2006

[] (1)

and

[] (2)

and

[] (3)

Section 106 Agreement

relating to
[Property]

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1 Statutory Powers

This Agreement is a planning obligation for the purposes of Section 106 of the Act and is entered into pursuant also to Section 111 of the Local Government Act 1972 and it is acknowledged by the parties that the obligations contained within it are enforceable by the Council as local planning authority against the Developer and Owner as owner of an interest in the Land and its successors in title in respect of their interests in the Land

2 Interpretation

2.1 In this Agreement unless the context otherwise requires the following terms (arranged in alphabetical order) shall have the following meanings:

“the Act” means the Town and Country Planning Act 1990 (as amended)

“Additional Amount” the sum or sums calculated in accordance with clause [] of this Agreement

“Affordable Housing” means Social Rented Housing and/or Intermediate Housing available to people (including Key Workers) who cannot afford to buy or rent houses generally available on the open market in the [] area

“the Additional Affordable Housing Units” means [size/type of units] to be constructed on plot numbers [] shown on Plan [] to Eco Homes Very Good standard

“Agreement” this Deed of Agreement

“the Application” the planning application for the development of the Land submitted by the Developer/Owner to the Council to which the Council has allocated reference [] and dated [].

[“CEPF Index” the Civil Engineering Prices Formula or during any period when no such Index

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	exists the Index which replaces the same or is the nearest equivalent thereto as the Council shall reasonably nominate taking into account any official reconciliation of changes in its basis of calculation]
“Completed”	practically complete save for minor snagging items such that it is reasonably fit for occupation or use (and “Complete” shall be construed accordingly)
“Conditions Precedent”	the conditions contained in clauses []
“Contribution Payment Date”	the date of Implementation of the Development
“the Development”	redevelopment of the Land pursuant to the [] Permission to []
“Dispose”	transfer (by way of freehold or commonhold transfer or grant of a leasehold interest for a term which shall be not less than 125 years) (and “Disposed” shall be construed accordingly)
[“the Highway Works”	the off-site highway works detailed in []
[“the Highway Works Contribution”	the sums or any of them detailed in paragraph [] or if applicable, such sum or sums payable to the Council by the Developer/Owner/
“Implementation”	means to carry out a “material operation” as defined in section 56 (4) of the Act (and “Implement” and

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	“Implemented” shall be construed accordingly)
“Interest Rate”	four percent per annum above the base rate of Barclays Bank plc from time to time
“Intermediate Housing”	means a range of housing for discount market rent or sale or part sale on a shared ownership or shared equity basis
“Key Workers”	means essential workers in key public services as defined by the Office of the Deputy Prime Minister and who are eligible for assistance under the Key Worker Living Programme as published by the Office of the Deputy Prime Minister or other such scheme that may supersede the programme or who are defined by the Council’s own definition which includes teachers nurses other health workers police fire fighters social workers bus and ambulance drivers
“the Land”	means [] registered at the Land Registry under title number [] shown [] on the Plan
“Local Plan”	the [] Local Plan []
“Mortgagees”	the First Mortgagee and the Second Mortgagee
“Occupation”	occupation other than for the purposes of fitting out marketing or site security (and “Occupy” “Occupied” and “Occupying” shall be construed accordingly)

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“the Open Market Units”	means the [] Residential Units which have not been designated Affordable Housing Units pursuant to this Agreement
“Optimum Tenure Mix”	means the mix of tenure types of the Affordable Housing Units set out in Schedule []
“the Permission”	planning permission for the redevelopment of the Land issued pursuant to the Application a draft of which is attached at Schedule []
“the Plan”	the plan attached to this Agreement
[“Play Area Contribution”	means the sum of []]
[“Play Area Improvements”	the construction and improvement of play space facilities at]
“Registered Social Landlord”	[] Housing Association (industrial and provident society no: IP) or such other social landlord as is registered as such under the Housing Act 1996 and is approved in writing by the Council for the purpose of this Agreement such approval not to be unreasonably withheld or delayed
“Residential Units”	the [] dwellings comprising the Development
“Shared Ownership Housing”	means housing to be sold under leases which comply in all respects with the Housing Corporation’s model form of shared ownership leases (or should the Housing Corporation cease to exist a form issued or approved by the body or entity which replaces it or which is approved by the Council)

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- “Social Rented Housing” means housing available to rent at no more than Housing Corporation target rents
- [“Supplemental Amount” the sum calculated in accordance with clause [] of this Agreement]
- “the Unconditional Date” the date to be ascertained in accordance with the provisions of clause 3 hereof upon which date this Agreement shall become unconditional and have full effect
- [“Waste Management Plan” means a plan for the management storage and collection of waste generated by the occupiers of the Development/Owner]
- “Working Days” days on which banks in the City of London are open to the public
- 2.2 (Save where is otherwise provided) references in this Agreement to the Owner, the Developer and the Mortgagees shall include their successors in title and their assigns
- 2.3 References in this Agreement to “the Council” shall include any successor to its functions as local planning authority
- 2.4 The clause headings in this Agreement are for convenience only and do not form part of the Agreement
- 2.5 References in this Agreement to clauses paragraphs and schedules shall (unless the context otherwise requires) be references to clauses paragraphs and schedules in this Agreement
- 2.6 References in this Agreement to the singular shall include the plural and vice versa
- 2.7 References in this Agreement to one gender shall include all other genders
- 2.8 Any covenant in this Agreement by which the relevant party is not to do an act shall be construed as if it were a covenant not to do or permit or suffer to be done such act
- 2.9 Any covenant in this Agreement whereby the relevant party is not to omit to do an act or thing shall be construed as if it were a covenant not to omit or permit or suffer to be omitted such act or thing.

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2.10 References in this Agreement to statutes by-laws regulations orders and delegated legislation shall include any statute by-law regulation order or delegated legislation re-enacting or made pursuant to the same.

2.11 Where any party to this Agreement is two or more individuals references to that party shall include the plural number and obligations expressed or implied to be made by or with such party are deemed to be made by or with such individuals jointly and severally

3 **Conditionality**

The obligations in clause [] of this Agreement are unless otherwise specified conditional upon:

3.1 The grant of the Permission by the Council; and

3.2 Implementation of the Permission by or on behalf of the Developer/Owner whichever shall be the last to occur (“the Unconditional Date”)

4 **Covenants by the Owner and the Developer**

4.1 The Developer and the Owner hereby covenant with the Council not to Implement the Development before the grant of the Permission

4.2 (Subject to the Conditions Precedent being fully satisfied) the Owner and the Developer hereby jointly and severally covenant for the benefit of the Council and for the benefit of each other that they will each observe and perform the covenants on their part contained in Schedule 3

5 **Council’s Covenants**

The Council hereby covenants with the Owner and the Developer that it will observe and perform the covenants on its part contained in Schedule 1

6 **Release and Lapse**

6.1 It is hereby agreed that the Owner and the Developer shall not be liable for a breach of any of their obligations under this Agreement after they shall have parted with all of their interests in the Land

6.2 It is further agreed that this Agreement shall lapse and be of no further effect if:

6.2.1 the Permission shall lapse without having been Implemented; or

6.2.2 the Permission shall be modified or revoked other than with the consent of the Developer/Owner; or

6.2.3 the Permission is quashed following a successful legal challenge

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7 **Local Land Charge**

7.1 This Agreement is a local land charge and shall be registered as such by the Council

7.2 Upon the full satisfaction of all the terms of this Agreement or if this Agreement lapses pursuant to clause 6.2 hereto the Council shall at the request of the Developer/Owner procure that all entries in the register of local land charges relating to it shall be removed forthwith

8 **No Fetter on Discretion**

Nothing in this Agreement shall be taken to be or shall operate so as to fetter or prejudice the Council's statutory rights powers discretions and responsibilities

9 **Warranty as to Title**

The Owner hereby warrants to the Council that the title details referred to in recital (B) are complete and accurate in every respect

10 **Severability**

It is agreed that if any part of this Agreement shall be declared unlawful or invalid by a Court of competent jurisdiction then (to the extent possible) the remainder of this Agreement shall continue in full force and effect.

11 **Costs**

The Owner and the Developer hereby warrant for the benefit of the Council that they will on or before the date of this Agreement pay the Council's costs in connection with the preparation and completion of this Agreement.

12 **Contracts (Right of Third Parties) Act 1999**

Notwithstanding the provisions of the Contracts (Right of Third Parties) Act 1999 no part of this Agreement shall be enforceable by a third party who is not a party to the Agreement and for the avoidance of doubt the terms of the Agreement may be varied by agreement between the parties without the consent of any such third party.

13 **Notification of Commencement**

The Owner and the Developer jointly and severally covenant for the benefit of the Council that they will give the Council at least twenty (20) Working Days written notice prior to Implementing the Development

14 **Notices**

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14.1 Any notices required to be served by one party on another under this Agreement shall be in writing and shall be served by first class prepaid post or by facsimile transmission at the addresses shown in this Agreement or at such other addresses as they may by notice substitute.

14.2 Any notice required to be served on the Council shall be marked “For the attention of the Development Control Manager” and shall bear the reference “Section 106 Agreement - []”

15 Indemnity

15.1 Notwithstanding any other Clauses of this Agreement the Owner and the Developer jointly and severally covenant to indemnify the Council from and against all actions claims demands expenses and proceedings arising under or out of or incidental to or in connection with the performance by the Owner and the Developer of their respective obligations under this Agreement PROVIDED THAT such indemnity shall not apply in respect of any action claim demand expenses and proceedings which arise out of any negligent act default or omission on the part of the Council.

16 Payment of Financial Contributions

16.1 In the event of any increase (but not decrease) in the CEPF Index as it may pertain to the Highway Works Contribution, the Additional Amount shall be calculated as follows:

Each Highway Works Contribution shall be apportioned to the following elements in accordance with the percentage quoted along side each:

ELEMENT	PERCENTAGE SPLIT
Labour	30%
Plant	15%
Aggregates	5%
Bricks	0%
Cement	5%
Roadstone, etc	25%
Gas Oil	10%
Timber	5%
Steel Reinforcement	5%
Metal Sections	0%
(TOTAL)	(100%)

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For each such element the following formula shall be applied to the amount of each element:

$$\text{Amount after variation} = A \times \frac{B}{C}$$

Where:-

A = the percentage split for that element;

B = the CEPF Index for that element at the date of payment; and

C = the CEPF Index for that element as at 2 December 2002 being the date when the works were costed by the Council

The Additional Amount shall be the sum of all the elements after application of the above formula to the amount of each element less the original Highway Works Contribution to which the above formula has been applied

- 16.2 In the event of any increase (but not decrease) in the Retail Prices Index (All items) as published by the Office of National Statistics (or in the event the Office of National Statistics ceases to publish the said index an equivalent reasonably determined by Council) ("the Index") as it may pertain to the Play Area Contribution, the Supplemental Amount shall be the difference between the amount of the whole Play Area Contribution and the sum calculated as follows:

$$\text{Amount after variation} = A \times \frac{B}{C}$$

Where:-

A = the Play Area Contribution

B = the Index for month preceding the month in which the Play Area Contribution is paid

C = the Index for October 2002

- 16.3 Interest on Late Payments

Any payment due from the Owner and the Developer under this Agreement which is not paid on the due date shall be payable with interest calculated at the Interest Rate (calculated on a daily basis from the date on which it fell due)

17 **Consent of Mortgagees**

The Mortgagees as mortgagees in respect of the Land hereby consent to this Agreement being entered into and to the obligations becoming binding on the Land notwithstanding their respective charges

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IN WITNESS WHEREOF the parties have executed this Agreement as a Deed on the date first before here written

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SCHEDULE 1

The Council's Covenants

The Council covenants with the Owners and the Developer as follows:

1 Financial Contributions

1.1 The Council will upon receipt of the [] pay the same into an account from which the amount of the financial contributions may from time to time be readily identified

1.2 The Council will not:-

1.2.1 use any part of the [] Contribution otherwise than for the purposes of [];

1.2.2 use any part of the [] Contributions otherwise than for []

2 Confirmation of Compliance

The Council will upon the reasonable written request of Owners and the Developer at any time after each or all of any obligations which are not continuing obligations set out in this Agreement have been performed or otherwise discharged forthwith after such request issue written confirmation of such performance or discharge.

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SCHEDULE 2

Draft Planning Permission

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SCHEDULE 3

The Owner's and Developer's Covenants

The Owner and the Developer covenant with the Council so as to bind their respective interests in the Land as follows:

1 Affordable Housing

- 1.1 The Owner shall Complete the construction of the Affordable Housing Units by the earlier of:
 - 1.1.1 the date on which the Open Market Units are Completed; and
 - 1.1.2 the date [*twelve (12)*] months after the date of Implementation of the Development
- 1.2 Prior to Completion of the Affordable Housing units the Owner shall provide pedestrian and vehicular access foul and surface water sewers and mains water gas electricity and telecommunication services thereto
- 1.3 Prior to Completion of the Affordable Housing Units the Owner shall use reasonable endeavours to agree the Purchase Price with the Registered Social Landlord to whom the Affordable Housing Units are to be transferred pursuant to paragraph 1.5 of this Schedule
- 1.4 In the event that the Purchase Price has not been agreed upon by the Registered Social Landlord and the Owner by the date of Completion of the Affordable Housing Units the Owner shall refer the matter to a Surveyor in accordance with the provision of clause 18 of this Agreement.
- 1.5 The Owner shall use reasonable endeavours to Dispose of the Affordable Housing Land and the Completed Affordable Housing Units to a Registered Social Landlord within a period of three months of the date on which the Purchase Price is agreed upon or determined by a Surveyor
- 1.6 The Owner shall not Occupy more than [] of the Open Market Units until the Affordable Housing Units have been Disposed of to a Registered Social Landlord
- 1.7 The Owner will keep the Council informed of and (when requested) will produce evidence (to the reasonable satisfaction of the Council) of all attempts to Dispose of the Affordable Housing Land and the Affordable Housing Units
- 1.8 Nothing in this Agreement shall be construed as imposing or otherwise implying any obligation on the Council to grant or make available any public subsidy or other

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financial support) in respect of the Affordable Housing Land or Affordable Housing Units

- 1.9 The Owner will after a period of three months commencing on the date of Completion of the Affordable Housing Units and at all times subsequently when any such Affordable Housing Unit becomes available for Occupation let the Affordable Housing Unit (by way of Assured Tenancy or Shared Ownership Lease) to a person nominated by the Council in writing in accordance with the terms of this Agreement and will not permit any of the Affordable Housing Units to be Occupied otherwise than strictly in accordance with the terms of this Agreement or be used otherwise than as Affordable Housing
- 1.10 The Owner will not permit the Affordable Housing Units to be Occupied by any person other than one who is nominated by the Council and who satisfies the guidelines set out in paragraph 1.11 below (“the Guidelines”)
- 1.11 The Guidelines referred to in paragraph 1.10 above are:-
 - 1.11.1 Each person shall come within the charitable objects of the Registered Social Landlord who is to acquire the Affordable Housing Units pursuant to this Agreement and will be in housing need and will not be in a financial position to secure accommodation in the parishes referred to below on the open market
 - 1.11.2 Each person will save in exceptional circumstances only be allocated accommodation appropriate to his current need.
 - 1.11.3 Each of the Affordable Housing Units on the Land shall be occupied by a person who or if occupied by more than one person at least one of whom shall fall within the following categories of applicants and priorities given in the following order:-
 - 1.11.3.1 Persons who live or have their place of work in the parish of [] and have done so for three out of the last five (5) years or more or who have lived in [] for three out of the last five (5) years previously or whose parents siblings grand-parents or adult children live in [] and have done so for three out of the last five (5) years or more or who have lived in [] for three out of the last five (5) years previously.

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- 1.11.3.2 Persons who live or have their place of work in [] and have done so for one (1) to five (5) years or who have lived in [] for between one (1) and five (5) years previously or whose parents siblings grand-parents or adult children live in [] and have done so for one (1) to five (5) years or more.
- 1.11.3.3 Persons who live or have their place of work in the parishes (“the Parishes”) referred to below and have done so for five (5) years or more or who have lived in one of the Parishes for five (5) years previously or whose parents siblings grand-parents or adult children live in one of the Parishes and have done so for five (5) years or more or who have lived in one of the Parishes for five (5) years previously.
- 1.11.3.4 Persons who live or who have their place of work in one of the Parishes and have done so for less than five (5) years or who have lived in one of the Parish for between one (1) and five (5) years previously or whose parents siblings grand-parents or adult children live in one of the Parishes and have done so for five (5) years or more.
- 1.12 The Parishes are in descending order of priority:-
- 1.12.1 The Parish of []
- 1.12.2 The Parishes []
- 1.12.3 The Parishes of []
- 1.12.4 Any other Parish within East Hampshire
- 1.13 Notwithstanding paragraph 1.10 of this Schedule the Council shall be at liberty to nominate any person for Occupation of the Affordable Housing Units in the event but not otherwise that no nominee who satisfies the provisions of paragraph 1.11.3 can be found within 28 days of the Owner seeking such a nominee or of an Affordable Housing Unit becoming vacant and available for Occupation which ever is the later date.
- 1.14 Notwithstanding the provisions of paragraph 1.10 of this Schedule the Registered Social Landlord shall be at liberty to nominate any person for Occupation of the Affordable Housing Units from its own waiting list in the event that the Council has not nominated any person in accordance with the provisions of this Schedule within

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30 working days of the Registered Social Landlord seeking such a nominee and in the case of a shared ownership Affordable Housing Unit the Registered Social Landlord shall be at liberty to market the property with a reputable estate agent within the locality.

- 1.15 It is agreed and declared that the provisions paragraph 2 of this Schedule shall:-
- 1.15.1 cease to have effect in respect of any Affordable Housing Unit which is transferred to the tenant thereof under the right to buy provisions of the Housing Act 1985 or the right to acquire provisions of the Housing Act 1996 (or any legislation amending or replacing the same)
 - 1.15.2 cease to have effect in respect of any Affordable Housing Unit held under a shared ownership lease where the lessee (or its mortgagee) has acquired 100 per centum of the equity in the Affordable Housing Unit and has taken a transfer of the landlord's freehold interest in the dwelling
- 1.16 The Developer will use all reasonable endeavours to the satisfaction of the Council to achieve the Optimum Tenure Mix in respect of the Additional Affordable Housing Units. Such reasonable endeavours will include:
- 1.16.1 Early engagement with the Housing Corporation
 - 1.16.2 Sound value for money bids to the Housing Corporation for grant
 - 1.16.3 Ongoing engagement with the Council
- and evidence of such endeavours shall be produced to the Council forthwith upon being requested PROVIDED THAT in the event that the Developer having used reasonable endeavours to the reasonable satisfaction of the Council cannot provide the Additional Affordable Housing Units in accordance with the Optimum Tenure Mix it shall provide them in accordance with such other tenure mix as is reasonably approved by the Council in writing
- 1.17 In the event that there is a default under any legal charge or mortgage of any Affordable Housing Unit which is owned by the Developer then any chargee or mortgagee or any receiver or manager acting on the instructions of any such mortgagee or chargee ("the Chargee") shall be entitled to exercise its power of sale free from the restrictions of this schedule provided that (a) the Chargee shall first have followed the procedure set out in clause 1.17.1 to 1.17.7 and (b) the provisions of 1.17.8 apply:

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- 1.17.1 The Chargee shall give written notice (“the Sale Notice”) to the Council of its intention to exercise its power of sale
- 1.17.2 At the same time as giving the Sale Notice the Chargee shall make an offer (“the Offer”) to sell the Affordable Housing Unit or units to the Council for an amount to be agreed or determined in accordance with sub-paragraph 1.17.5.2
- 1.17.3 The Council may notify the Chargee in writing within one month of the date of the Offer whether or not it wishes to accept the Offer (in the case of an acceptance such acceptance to be conditional upon the Purchase Price being acceptable to the Council)
- 1.17.4 If the Council shall notify the Chargee within the time specified in sub-paragraph 1.17.3 that it does not wish to accept the Offer the Council shall then have one month from the date upon which it notifies in writing its refusal of the Offer within which to arrange for the transfer of the Affordable Housing Unit in consideration of the Purchase Price to a Registered Social Landlord or Alternative Affordable Housing Provider
- 1.17.5 If either the Council shall notify the Chargee within the time specified within sub-paragraph 1.17.3 that it wishes to accept the Offer or if within the time specified in sub-paragraph 1.17.4 the Council gives written notice to the Chargee that arrangements can be made in accordance with sub-paragraph 1.17.5 then:
 - 1.17.5.1 the Chargee shall (subject as provided in clause 1.17.7) sell the Affordable Housing Unit to the Council or the Registered Social Land or the Alternative Affordable Housing Provider (as applicable) at the Purchase Price during the Completion Period (as defined below); and
 - 1.17.5.2 the Council and the Chargee shall endeavour to agree the Purchase Price which shall represent the open market value of the Affordable Housing Units as at the date of the Sale Notice but subject to all or any tenancies of the Affordable Housing Units as may then be subsisting AND in default of such agreement the Purchase Price shall be determined on the same basis of valuation by an independent surveyor

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(“the Surveyor”) experienced in valuing residential land and property who shall act as an expert and whose costs shall be borne by the Council and the Chargee in equal shares and the Surveyor shall be appointed in default of agreement between the parties on the application of either party by or on behalf of the President for the time being of the Royal Institute of Chartered Surveyors and the Surveyor’s determination shall be binding on both parties

- 1.17.6 Subject to the provisions of sub-paragraph 1.17.7 the transfer to the Council or to a Registered Social Landlord shall be completed within two months of the date the Purchase Price is agreed or determined in accordance with sub-paragraph 1.17.5.2 (“the Completion Period”)
- 1.17.7 If the Chargee does not wish to exercise its power of sale at any time prior to the expiry of the Completion Period after giving the Sale Notice or the Council does not wish to continue with the exercise of its rights under the provisions of this paragraph 1.17 within such period that party shall give to the other not less than seven days’ written notice of its intention to discontinue
- 1.17.8 If:
- 1.17.8.1 the Council fails to give notification to the Chargee within the time specified in sub-paragraph 1.17.3 or
 - 1.17.8.2 having given notification of refusal of the Offer in accordance with sub-paragraph 1.17.3 the Council fails to give notification to the Chargee within the time specified in sub-paragraph 1.17.4 or
 - 1.17.8.3 the Council having complied with the time periods specified in sub-paragraph 1.17.3 and (in the case of a refusal of the Offer) sub-paragraph 1.17.4 the transfer to either the Council or to a Registered Social Landlord or Alternative Affordable Housing Provider (as the case may be) shall not be completed solely by reason of the default of the Council or the nominated Registered Social Landlord or Alternative Affordable Housing Provider (as the case may be) within the Completion Period or

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1.17.8.4 the Council shall serve notice of its intention to discontinue under sub-paragraph 1.17.7

then the Chargee shall be under no obligation to sell the Affordable Housing Units either to the Council or to a Registered Social Landlord and shall be entitled to exercise its powers of sale without any of the provisions of this Schedule being binding on the Chargee or any purchaser or purchasers of the Affordable Housing Units or any part thereof or any successor in title hereto

1.17.9 The Council shall in formulating or promoting any arrangements referred to in sub-paragraph 1.17 give consideration to protecting the interests of the Chargee in respect of monies outstanding under the charge or mortgage

