

Report Title:	Draft Affordable Housing Delivery Supplementary Planning Document
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Bermange - Cabinet Member for Planning, Legal and Asset Management
Meeting and Date:	Cabinet – 28 February 2024
Responsible Officer(s):	Andrew Durrant: Executive Director of Place Adrien Waite: Assistant Director of Planning
Wards affected:	All

REPORT SUMMARY

This report recommends that the Cabinet approve the publication of the draft Affordable Housing Delivery Supplementary Planning Document (SPD) for public consultation.

The draft SPD provides more detailed guidance to support the implementation of the affordable housing policy requirements in the Borough Local Plan. It includes guidance on issues relating to the amount, type, tenure, and location of affordable housing, and addresses also issues relating to development viability and how affordable housing provision should be integrated into the planning application process.

The SPD will help to deliver the Corporate Plan's objectives in relation to affordable housing, including the overall amount of affordable housing provided and in ensuring that priority is given to the provision of social rented and affordable rented homes.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report and:

- i) Approves the publication of the draft Affordable Housing Delivery Supplementary Planning Document as set out at Appendix B for public consultation; and**
- ii) Delegates authority to the Assistant Director of Planning, in consultation with the Cabinet Member for Planning, Legal and Asset Management, to approve and publish any minor changes to the draft Affordable Housing Delivery Supplementary Planning Document (SPD) prior to its publication and to approve Appendix 5 of the draft Affordable Housing Delivery SPD which will set out the justification for the financial contributions calculator.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
<p>To approve the publication of the draft Affordable Housing Delivery Supplementary Planning Document (SPD) for public consultation.</p> <p>This is the recommended option</p>	<p>The SPD provides the opportunity to develop more detailed, technical planning guidance to support the delivery of affordable housing required through policies in the Borough Local Plan, helping to optimise the provision of affordable housing in a way that best meets the affordable housing needs of the Borough. Consultation on the draft SPD is required to enable the SPD to proceed to adoption in due course.</p> <p>Choosing not to approve the consultation on the draft SPD would delay its adoption and mean it is more difficult to secure the right amount and type of affordable housing because there would not be detailed, locally specific guidance available.</p>
<p>Not publish the draft Affordable Housing Delivery SPD for public consultation</p>	<p>There is a risk that this would leave the Council without the detailed affordable housing guidance considered appropriate by the Council which could result in not making the most of development opportunities to deliver the right amount and type of affordable housing.</p>
<p>Do Nothing</p>	<p>This would cause delays to the adoption of the Affordable Housing Delivery SPD or prevent its production altogether.</p> <p>There is a risk that this would leave the Council without the detailed affordable housing guidance considered appropriate by the Council which could result in not making the most of development opportunities to deliver the right amount and type of affordable housing.</p>

2.1 Supplementary Planning Documents (SPDs) are important documents that add further detail to the Borough Local Plan (BLP), helping to explain in more detail

how policies in the BLP should be delivered. It is important to note that SPDs cannot create new policy, and do not replace or amend existing policy in the BLP.

- 2.2 The BLP indicates that the Council will prepare an Affordable Housing Delivery SPD which will provide detailed information regarding the implementation and delivery of the affordable housing policy in the BLP (Policy HO3 “Affordable Housing”). It sets out a range of issues that the SPD should include.
- 2.3 A draft Affordable Housing Delivery SPD has been prepared for consultation by a team of officers, including from Planning, Housing and Legal. Preparation of the document included early engagement with registered providers of affordable housing and developers to consider the key issues that it should be addressing, and advice was sought about specific guidance on development viability.
- 2.4 The draft SPD seeks to optimise the level of affordable housing delivered through the planning system and aims to ensure that the affordable housing delivered addresses the affordable housing needs of the Borough, within the context of the BLP policy. As such the draft SPD is an important tool in helping to deliver the Council’s Housing Strategy 2021-2026 and the current Corporate Plan objectives in relation to helping achieve the overall amount of affordable housing to be provided and in ensuring that priority is given to the provision of social rented and affordable rented homes.
- 2.5 The draft SPD, as set out in Appendix B, is structured around a series of questions to help guide developers to bring forward the right amount and type of affordable housing and ensure it is appropriately integrated into their new development. Because of the complex nature of providing affordable housing, the SPD is very much a technical document aimed at developers to guide their proposals. However, it includes at the beginning a simplified “Developer’s Guide” that summarises the key elements of the document.
- 2.6 Key elements of the guidance in the draft SPD include:
 - the quantum of affordable housing to be provided and how it should be calculated
 - ensuring the right dwelling size and tenure mix is delivered, with a focus on delivering rented housing and ensuring that the affordable housing provided is affordable to those in housing need
 - where affordable housing should be provided
 - how affordable housing should be delivered on sites
 - how to address development viability issues
 - the planning application process and the content of Section 106 legal agreements to secure the affordable housing.
- 2.7 Whilst most affordable housing secured through the planning system is provided on site, and that is the preferred means of delivery in most instances,

occasionally it may be necessary to take a financial payment (known as a “commuted sum”) in lieu of on-site provision which can then be spent on provision of affordable housing in the Borough. To assist with determining the appropriate level of financial contribution for a scheme, an affordable housing online financial contribution calculator is being prepared to sit alongside the SPD. The calculator will be consistent with the BLP policy requirements and the SPD guidance in its approach.

- 2.8 The next stage in the statutory process for preparing an SPD is to publish the draft SPD for public consultation. It is recommended that Cabinet agree to proceed to this next stage, with a view to consultation starting in March 2024 for a minimum of 4 weeks. Delegated authority is sought for making minor changes to the document and for the agreement of Appendix 5 which will set out the justification for the financial contributions calculator.
- 2.9 Supporting documents that would be published to accompany the consultation draft of the SPD include the Strategic Environmental Assessment Scoping Report and a draft Consultation Statement summarising the early engagement undertaken in preparation of the draft SPD.

3. KEY IMPLICATIONS

- 3.1 Whilst SPDs are not part of the statutory development plan (such as the Borough Local Plan) with its associated planning status and weight in decision making, they are an important material consideration when determining planning applications, both for the Council as planning authority, and also the Planning Inspectorate in relation to appeals. This SPD will assist the Council in its negotiations with developers to achieve as much affordable housing as possible from development schemes and, by seeking to secure the right tenure and size of affordable housing in new developments, ensure that the affordable housing provided is most appropriate in meeting the affordable housing needs of the Borough. As noted above the preparation of this SPD is specifically referred to in the Borough Local Plan in relation to Policy HO3 “Affordable Housing”.

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Publication of the draft Affordable Housing Delivery SPD	SPD published for consultation in July 2024	SPD published for consultation in March 2024	n/a	n/a	SPD anticipated to be adopted July 2024

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 The cost of producing the SPD to date has been £4,000 and has been funded from within existing budgets. This is to provide consultancy support to prepare an affordable housing financial contributions calculator to sit alongside the SPD

		in place or if all mitigations fail	with no mitigations in place.			once all mitigations in place and working	with all mitigations in place.
There is a risk that this would leave the Council without the detailed affordable housing guidance considered appropriate by the Council which could result in not making the most of development opportunities to deliver the right amount and type of affordable housing.		Major 3	Very likely	The Council currently has the policies in the Borough Local Plan and an out of date guidance document that does not relate to those policies.	Adopt the recommendations in this report	Minor 1	Unlikely

7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equality Impact Assessment is available as Appendix A.
- 7.2 Climate change/sustainability. The development of new affordable housing facilitated through the Borough Local Plan and this proposed Affordable Housing Delivery SPD will also be subject to sustainability policies in the Borough Local Plan and the emerging Sustainability SPD aimed at mitigating the impact of climate change.
- 7.3 Data Protection/GDPR. The consultation on the draft Affordable Housing Delivery SPD will be undertaken in accordance with the Data Protection Act 2018 and the General Data Protection Regulation. There are not anticipated to be any impacts.

8. CONSULTATION

- 8.1 Early engagement was undertaken with registered providers of affordable housing and developers on the potential scope of the SPD and potential issues that it should address. For further information see the Affordable Housing Delivery SPD Draft Consultation Statement (see background documents).

8.2 The draft Affordable Housing Delivery SPD will, subject to Cabinet approval, be published for a 4 week period of consultation commencing in March 2024.

9. TIMETABLE FOR IMPLEMENTATION

9.1 Implementation date if not called in: March 2024. The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
March 2024	Commence public consultation on the draft SPD
April 2024	Close public consultation on the draft SPD
May/June 2024	Consideration of comments received and any amendments to the SPD as necessary
July 2024	Adopt the SPD

10. APPENDICES

10.1 This report is supported by 2 appendices:

- Appendix A – Equality Impact Assessment
- Appendix B – Draft Affordable Housing Delivery SPD

11. BACKGROUND DOCUMENTS

11.1 This report is supported by 3 background documents:

- Royal Borough of Windsor and Maidenhead Borough Local Plan (February 2022) <https://www.rbwm.gov.uk/home/planning-and-building-control/planning-policy/development-plan/adopted-local-plan>
- Affordable Housing Delivery SPD Draft Consultation Statement (February 2024)
- Strategic Environmental Assessment and Habitat Regulation Assessment; Screening Report for the Affordable Housing Delivery Supplementary Planning Document (February 2024)

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officer (or deputy)</i>			
Elizabeth Griffiths	Executive Director of Resources & S151 Officer	9.1.24	

Elaine Browne	Deputy Director of Law & Governance & Monitoring Officer	9.1.24	
<i>Deputies:</i>			
Andrew Vallance	Deputy Director of Finance & Deputy S151 Officer	9.1.24	
Jane Cryer	Principal Lawyer & Deputy Monitoring Officer	9.1.24	
<i>Mandatory: Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>			
Lyn Hitchinson	Procurement Manager	9.1.24	
<i>Mandatory: Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>			
Samantha Wootton	Data Protection Officer	9.1.24	10/01/2024
<i>Mandatory: Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>			
Ellen McManus-Fry	Equalities & Engagement Officer	9.1.24	
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Stephen Evans	Chief Executive	9.1.24	
Andrew Durrant	Executive Director of Place	9.1.24	
<i>Assistant Directors (where relevant)</i>			
Adrien Waite	Assistant Director of Planning	9.1.24	
Amanda Gregory	Assistant Director of Housing, Environmental Health and Trading Standards	9.1.24	
Chris Joyce	Assistant Director for Placemaking, Partnerships and Sustainability	9.1.24	
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Planning, Legal and Asset Management Cabinet Member for Adults, Health and Housing Services	Yes
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REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Key decision	No	No

First entered into the Cabinet Forward Plan: 13.12.23		
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Report Author: Ian Manktelow, Principal Planning Policy Officer, 01628 796200
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Appendix A - Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

www.rbwm.gov.uk



1. Background Information

Title of policy/strategy/plan:	<u>Draft Affordable Housing Delivery Supplementary Planning Document (SPD)</u>
Service area:	<u>Planning</u>
Directorate:	<u>Place</u>

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

The draft SPD is intended to provide more detailed guidance to support the implementation of the affordable housing policy in the Borough Local Plan. Approval is sought to publish the SPD for public consultation.

The intended outcome is to ensure that the amount of affordable housing delivered through the planning system is optimised and that priority is given to the provision of social rented and affordable rented homes as these best meet the housing needs of the Borough.

The delivery of affordable housing is through a combination of private developers and registered providers. Most affordable housing is secured on sites being developed by private developers, with a proportion of that housing secured as affordable housing for registered providers to manage.

Whilst the guidance is new, the underlying affordable housing policy is included in the adopted Borough Local Plan and this guidance does not and cannot change that policy approach.

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

Yes – the SPD will impact people and the local community by helping to secure affordable housing for those in housing need in the Borough.

It should be noted that the adopted Borough Local Plan (BLP), which this draft SPD supplements, was subject to equalities impact assessments in 2017 and 2019, and these did not identify any negative impacts for any group with protected characteristics. The SPD provides further details and guidance on the application of the affordable housing policy in the BLP; it does not create new policy.

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

Who will be affected by this proposal?

For example, users of a particular service, residents of a geographical area, staff

The ultimate outcome being sought will impact those in the Borough seeking affordable housing. It will also affect private developers and registered providers who are seeking to develop housing sites in the Borough.

Council Planning and Housing Officers will be affected as they will have to take account of the guidance in the SPD during the decision making process on relevant planning applications. The guidance is intended to assist them in their role, and provide clarity to developers bringing forward planning applications.

Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) disproportionately represented?

For example, compared to the general population do a higher proportion have disabilities?

Across the population as a whole, the proposal is likely to relate most to those on lower incomes. Evidence suggests younger age groups (aged 16-29) are most likely to experience housing problems, including affordability issues. People from ethnic minority backgrounds are also more likely to experience housing affordability issues.

What engagement/consultation has been undertaken or planned?

- How has/will equality considerations be taken into account?
- Where known, what were the outcomes of this engagement?

Early engagement has taken place with private developers and registered providers to help determine the issues that the SPD should address. A key consideration arising is to ensure that the affordable housing provided is affordable to those in housing need.

The report recommends that the draft SPD is published for public consultation. Comments relating to equalities considerations will be considered following the consultation and the SPD updated as appropriate.

What sources of data and evidence have been used in this assessment?

Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.

Equalities evidence matrix.

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age	Improving the supply and type of affordable housing will positively assist younger people who suffer more from housing problems, including affordability issues	Yes	
Disability	The Borough Local Plan policy regarding accessibility standards for new housing and the SPD highlights this in relation to the information that needs to be provided in planning applications	Yes	
Sex	The provision of affordable housing will benefit residents in housing need regardless of their sex	Yes	
Race, ethnicity and religion	Improving the supply and type of affordable housing will positively assist those from ethnic minority backgrounds who are more likely to experience housing affordability problems	Yes	
Sexual orientation and gender reassignment	The provision of affordable housing will benefit residents in housing need regardless of their sexual orientation	Yes	
Pregnancy and maternity	The provision of affordable housing will benefit residents in housing need regardless of their maternity status	Yes	
Marriage and civil partnership	The provision of affordable housing will benefit residents in housing need regardless of their marital status	Yes	
Armed forces community	The provision of affordable housing will benefit residents in housing need regardless of whether they are in the armed forces or not.	Yes	
Socio-economic considerations e.g. low income, poverty	Improving the supply and type of affordable housing will positively assist those on low income, particularly through the provision of social rented and affordable rented housing which the Council's planning policies and draft SPD seek to prioritise.	Yes	

Children in care/Care leavers	The provision of affordable housing will benefit residents in housing need regardless of their care experience	Yes	
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5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

<p>What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it? For example, adjustments needed to accommodate the needs of a particular group</p>
<p>The draft SPD is not changing policy but is providing more detailed guidance to support the delivery of existing policy.</p>
<p>Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?</p> <ul style="list-style-type: none"> For planned future actions, provide the name of the responsible individual and the target date for implementation.
<p>Not applicable</p>
<p>How will the equality impacts identified here be monitored and reviewed in the future? See guidance document for examples of appropriate stages to review an EQIA.</p>
<p>The delivery of affordable housing, including the different types of tenure, will be monitored through the Authority Monitoring report which monitors the development that occurs across the Borough against policies and monitoring indicators in the Borough Local Plan.</p>

6. Sign Off

Completed by:	Date:
Approved by:	Date:

If this version of the EQIA has been reviewed and/or updated:

Reviewed by:	Date:
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Appendix B

Affordable Housing Delivery Supplementary Planning Document

Draft for Consultation

Version for Mandatory Consultees

9th January 2024

(Note: there may be a few further limited changes to this version prior to being finalised for Cabinet)

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Developer's Guide

1. This guide provides a brief summary of the main requirements and guidance in relation to the provision of affordable housing in the Borough. For the detail, please see the Borough Local Plan (especially Policy HO3) and the detail set out in this SPD.

2. What developments have to provide affordable housing and how much?

Size and type of development	30% of total units on the site	40% of total units on the site
Greenfield sites 10 dwellings or more, or more than 1,000 sq m of residential floorspace, up to 500 dwellings gross		✓
All other sites 10 dwellings or more, or more than 1,000 sq m residential floorspace (including those over 500 dwellings)	✓	
Sites of 5 – 9 dwellings gross within designated rural areas		✓

- Fractions of affordable units should generally be rounded up, or alternatively a financial contribution made using the online calculator.
- Where justified, the vacant building credit can be applied

3. What Tenure and Dwelling Mix should be provided?

	1 Bed Flat	2 Bed Flat	2 Bed House	3 Bed House	4 Bed House	
Rent:						80%
Social Rent 45%	10%	10%	20%	30%	10%	(45%)
Affordable Rent 35%						(35%)
Shared Ownership 5%	5%	10%	5%	0%	0%	20%
Total	15%	20%	25%	30%	10%	100%

- Social rents should be calculated in accordance with Homes England's "Rent Standard Guidance" dated April 2015 or subsequent guidance. These will normally be a lower rent than "affordable rent" below

- Affordable rents (including service charges) should be capped at the Local Housing Allowance rate for the location of the scheme and in any event be no more than 80% of local market rents
- Where shared ownership is provided as the intermediate tenure, developers need to ensure that overall costs are at an affordable level for those in need. This will include mean an initial equity purchase of upto 40% of the initial equity with a maximum rent of 2.75% on the remaining equity.
- Under the Government's transitional arrangements, the Council is not bringing in the First Homes initiative until the Local Plan is reviewed.

Where should affordable housing be provided?

- The hierarchy for provision is:
 - On-site
 - Alternative site
 - Financial contribution
- On-site will be the likely solution in the vast majority of developments.
- Where a financial contribution is the agreed approach, this should be calculated using the online calculator.

How should affordable housing be provided on site?

It should be:

- Fully integrated into the development, in appropriate clusters.
- Phased alongside the market housing
- 'Tenure blind'
- Be allocated the same ratio of car parking as the market housing

What do I do if I think there is a viability issue?

Developer's will need to justify why a site-specific viability assessment is needed. If a viability assessment is justified developers should:

- Undertake the assessment using the approach set out in the PPG, referring back to the Borough Local Plan viability assessment
- Apply the residual land value approach, with the benchmark land value based on the 'existing use value plus' approach
- Justify and evidence all inputs and assumptions
- Take account of all relevant planning policy requirements
- Demonstrate the proposal is deliverable
- Optimise the viability of their development
- Recognise the assessment will be made public.

Where a viability assessment indicates that policy level affordable housing or other requirements cannot be provided in full, the section 106 agreement will include early and late stage viability review clauses, and sometimes mid stage reviews.

Who should provide affordable housing?

- The Council's strong preference is that it should be provided by registered providers.
- The Council will seek, through the section 106 agreement, nomination rights.

Planning applications and legal agreements

- Applicants should engage at the pre-application stage, providing an affordable housing statement setting out the key elements of the affordable housing proposal
- This should be updated at the application stage
- Full details will be provided in an Affordable Housing Scheme at the full/reserved matters stage
- The section 106 agreement will secure the main elements of the scheme

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1. Introduction

Purpose of the SPD

- 1.1 Policy HO3 of the Borough Local Plan (BLP) (2022) sets out the Council's policy for the provision of affordable housing. Paragraph 7.7.15 of the BLP indicates that the Council will prepare and keep under review an Affordable Housing Delivery Supplementary Planning Document (SPD) which will provide detailed information regarding the implementation and delivery of the policy. It indicates a range of matters that the SPD will include. This SPD implements the requirement in paragraph 7.7.15.
- 1.2 It is important to note that this SPD does not set new policy, nor is it able to change policy in the Borough Local Plan. It does, however, provide updated evidence and further information to assist developers in delivering policy compliant development in relation to affordable housing.

Early engagement

- 1.3 As part of preparing this draft SPD, the Council engaged with key stakeholders on the scope of the SPD and key issues that should be addressed. Two meetings were held in April 2023 with registered providers active in the Borough, and a meeting was held with private developers and planning agents who are active in the Borough in May 2023. Officers also met with the Windsor, Ascot and Maidenhead Community Land Trust in July 2023. The Draft Consultation Statement accompanying this draft SPD sets out the key issues raised in those meetings and how these have influenced the content of the draft SPD.

2. Policy Context

National Planning Policy and Guidance

- 2.1 Paragraphs 63-66 of the NPPF (December 2023) set out the Government's policy on delivering affordable housing through planning including:
 - Assessing the need for different groups in the community in relation to size, type and tenure (para 63)
 - The presumption that affordable housing should be provided on-site (para 64)
 - The thresholds at which affordable housing should be sought (major development) or lower in designated rural areas (para 65)
 - Policy in relation to affordable home ownership (para 66)

2.2 The Glossary to the NPPF (Annex 2) defines affordable housing as:

- Affordable Housing for Rent
- Starter Homes
- Discounted market sales housing
- Other affordable routes to home ownership

Borough Local Plan and evidence base

2.3 The Borough Local Plan¹ was adopted in February 2022. Policy HO3 is the Affordable Housing policy. This is reproduced below. The supporting text to the policy provides justification for the policy and further information on its application.

Policy HO 3

Affordable Housing

1. The Council will require all developments for 10 dwellings gross, or more than 1,000 sq. m of residential floorspace, to provide on-site affordable housing in accordance with the following:
 - a. On greenfield sites providing up to 500 dwellings gross - 40% of the total number of units proposed on the site;
 - b. On all other sites, (including those over 500 dwellings) – 30% of the total number of units.
2. Within designated rural areas⁽¹⁴⁾, the Council will require 40% affordable housing from all developments of between 5 and 9 dwellings.
3. Where a development falls below the size thresholds in 1 or 2 but is demonstrably part of a potentially larger developable area above those thresholds, the Council will require affordable housing on a pro rata basis.
4. The required affordable housing size and tenure mix shall be provided in accordance with the Berkshire Strategic Housing Market Assessment 2016, or subsequent affordable housing needs evidence. This currently suggests a split of 45% social rent, 35% affordable rent and 20% intermediate tenure overall.
5. The delivery of affordable housing will be provided in accordance with the following order of priority:
 - a. On-site as part of the development and distributed across the development to create a sustainable, balanced community
 - b. On an alternative site, only if provision would result in a more effective use of available resources or would meet an identified housing need, such as providing a better social mix and wider housing choice

¹ Available on the Council's website [here](#)

6. If the Council consents to the affordable housing not being provided on-site under clause 5(b) a financial contribution equivalent to the cost of providing the same quantum of affordable housing which would otherwise be sought on site will be required in order to provide affordable housing on an alternative site. Financial contributions will also be required in respect of any fraction of an affordable unit that would be required to meet clauses 1 and 2 of the policy.
7. Planning obligations will be used to ensure delivery of affordable housing on an alternative site and to ensure that the affordable housing will remain at an affordable price for future eligible households, or for the subsidy to be recycled to alternative affordable housing provision.

Rural Exception Sites

8. Development proposals for limited affordable housing within the Green Belt, to meet local needs only, will be permitted as an exception where all of the following criteria are met:
 - a. a demonstrable local community need for affordable housing has been established;
 - b. the number, size and tenure of the dwellings are suitable to meet the identified need;
 - c. the site and the development proposal are well related to an existing settlement and not located in the open countryside;
 - d. the proposal is designed to respect the characteristics of the local area including the countryside setting, and
 - e. schools with capacity, health, shops and other community facilities are within reasonable travelling distance.

2.4 The housing need evidence underlying the Borough Local Plan Policy HO3 is the Berkshire Strategic Housing Market Assessment (SHMA) (2016)². It indicates a high level of need for affordable housing in the Borough. The SHMA also informed Policy HO2 which sets out the requirements in relation to housing mix and type. The Local Housing Needs Assessment (2019) provides a similar picture in terms of the overall need for affordable housing and the mix and type.³

2.5 This SPD supplements Policies HO2 and HO3 of the Borough Local Plan.

3. What developments have to provide affordable housing?

3.1 The Policy requires affordable housing on the following sites:

- Developments for 10 dwellings gross or more than 1,000 sq m of residential floorspace
- Within designated rural areas, developments of between 5 and 9 dwellings will also be required to provide affordable housing

3.2 The policy, HO3(3), also makes clear that where development falls below the size thresholds above, but is demonstrably part of a potentially larger developable area above those thresholds, the Council require affordable housing on a pro rata basis. For instance developers should not artificially

² Available on the Council's website [here](#)

³ Available on the Council's website [here](#)

subdivide a site to reduce the dwelling capacity below the threshold for affordable housing. An example of this would be where a new access road is proposed to be built to develop 7 new dwellings and a subsequent application is submitted for an additional 5 dwellings off the same access at a later date. Both of these on their own would be below the normal affordable housing threshold, but given that the two sites, regardless of ownership, form part of a larger developable area, the affordable housing percentage requirement should be applied to both schemes.

- 3.3 Also in this context, developers should not bring forward proposals that do not make best use of the land (i.e. that deliberately bring forward proposals to 'under-develop' the site to avoid affordable housing requirements). Similarly in defining the 'red' line extent of the site, developers should not exclude from the defined site area existing parts of the built development that are being materially modified (and hence clearly form part of the development).
- 3.3 These requirements apply to mixed use developments including an element of residential development, as well as developments comprising only residential uses. All dwellings are counted in the assessment of the thresholds, regardless of their use class.
- 3.4 A dwelling is considered to be a self-contained unit of accommodation. Self-containment is where all the rooms (including kitchen, bathroom and toilet) in a household's accommodation are behind a single door which only that household can use⁴. As such, institutional residential care homes and nursing care homes do not generally consist of self-contained dwellings units and would not therefore be subject to the provisions of the affordable housing policy. Extra Care/Assisted Living developments do normally consist of self-contained units and are subject to the provisions of the policy, as are sheltered housing schemes. In assessing the feasibility of incorporating affordable housing, consideration will be given to issues such as the overall layout of the proposal, location of dwellings, tenure mix, and access to communal areas and shared facilities.
- 3.5 Where a development is assessed against the floorspace threshold of 1,000 sq metres, this will be on the basis of gross floorspace, in the same way that the unit-based threshold is based on gross numbers.
- 3.6 Where a site above the site threshold for affordable housing consists of a mix of previously developer land (PDL) and greenfield land (and there are substantial elements of both on the site) the Council will expect a blended approach to the provision of affordable housing with the total percentage of affordable housing required based on the relative proportion of PDL and greenfield land on the application site. Where only a small proportion of the site (for example, less than 10%) is either PDL or greenfield, a blended approach will not apply and the percentage affordable housing requirement

⁴ As defined in the Census and used in Department for Levelling Up, Housing and Communities Dwelling Stock Estimates.

will be either 30% or 40% depending on whether the site is predominantly PDL or predominantly greenfield.

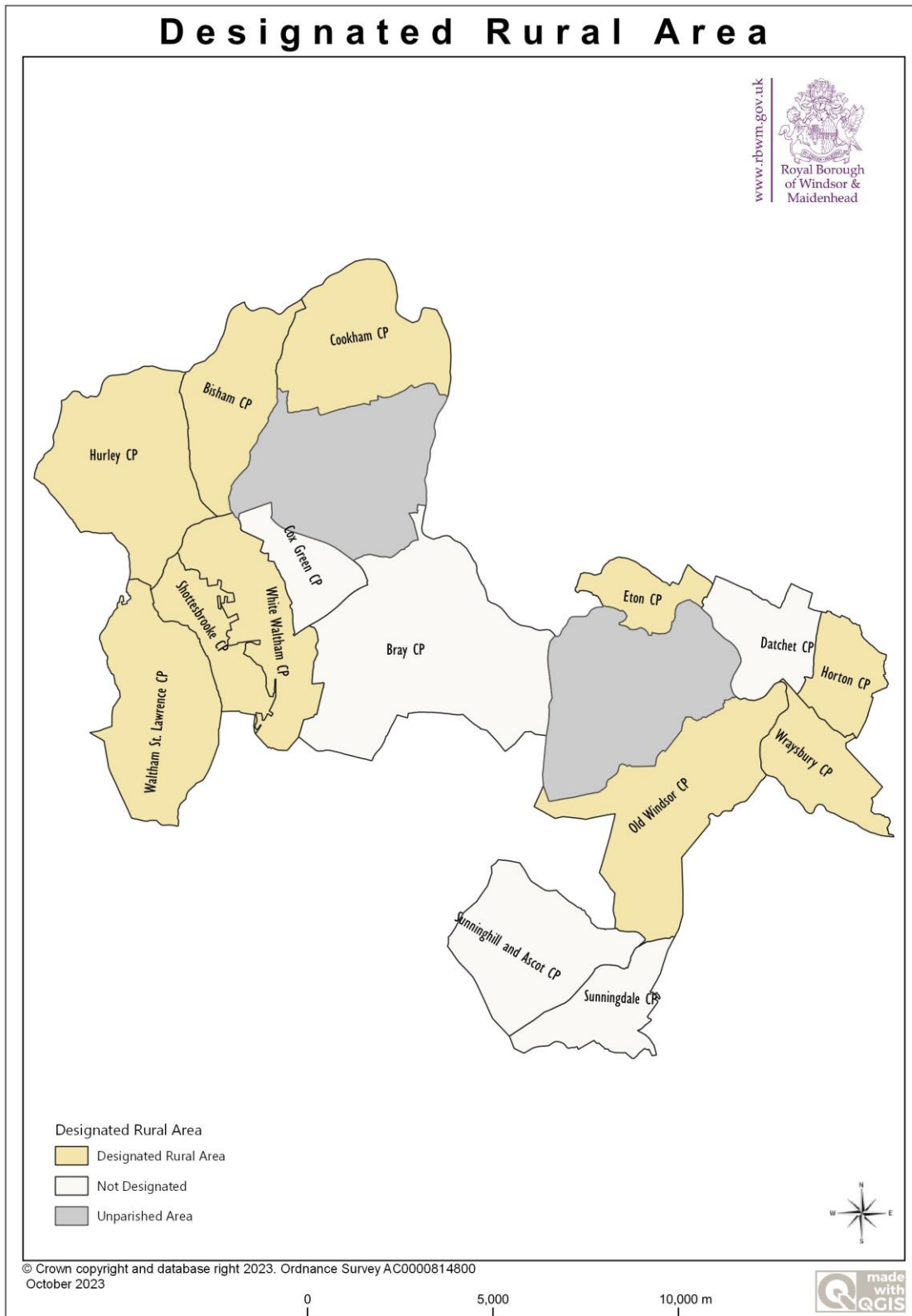
- 3.7 The designated rural areas to which the threshold of between 5 and 9 dwellings applies are set out in Schedule 1 of The Housing (Right to Acquire or Enfranchise)(Designated Rural Areas in the South East) Order 1997. This should also be based on gross dwelling numbers. Footnote 14 of the Borough Local Plan lists the parishes concerned but two parishes have been omitted from the footnote in error. The full list of parishes designated as rural areas in the Borough to which the lower threshold applies is as follows:

Bisham, Cookham, Eton, Horton, Hurley, Old Windsor, Shottesbrooke, Waltham St Lawrence, White Waltham, Wraysbury

These are shown on the map in Figure 1 below.

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Figure 1 Designated Rural Areas in the Borough



4. How much affordable housing should be provided?

- 4.1 The Policy requires affordable housing to be provided on-site at the following levels:
- On greenfield sites providing up to 500 dwellings gross – 40% of the total number of units proposed on the site to be affordable.
 - On all other sites, (including those over 500 dwellings) – 30% of the total number of units to be affordable.
 - Within the designated rural areas, the Council will require 40% from all developments of between 5 and 9 units.

- 4.2 Where the calculation of an affordable housing requirement results in a fraction of affordable unit needing to be provided, the Council would normally expect that fraction to be rounded up to the nearest unit and provided on-site. If that is not feasible the Council will require a financial contribution, based on a pro rata tenure and dwelling size mix, using the online calculator referred to in Section 7 of this SPD and made available on the Council's website.

Vacant Building Credit

- 4.3 Government policy⁵ indicates that 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, equivalent to the existing gross floorspace. This is referred to as the vacant building credit (VBC).
- 4.4 The applicability of the policy has limits which are set out below. Applicants should set out in their Planning Statement or Affordable Housing Statement how their site meets the criterion below for VBC to be applied:
- **VBC only applies to buildings** – defined as a permanent structure with a roof and walls. It excludes open sided structures.
 - **VBC only applies to vacant property** – this means a building will not have been in continuous use for a period of at least 6 months in the last 3 years ending the day the planning application first permits development.⁶
 - **VBC does not apply where a building has been abandoned** – Applicants will need to demonstrate that the building has not been abandoned, having regard to the criteria set out in Planning Practice Guidance.⁷
 - **VBC does not apply where a building has been demolished, or is in an advanced state of dilapidation**
 - **VBC will not be applied by the Council to properties made vacant for the sole purpose of re-development** – the onus is on the

⁵ National Planning Policy Framework (2021) paragraph 64

⁶ See Community Infrastructure Levy (Amendment)(England) (No.2) Regulations 2019, Schedule 1 Part 1 (1)(10)

⁷ Planning Practice Guidance, Planning Obligations section, paragraph 028. These criteria are based on case law

applicant to demonstrate why the property has been made vacant, including the provision of marketing evidence in accordance with Appendix D of the Borough Local Plan.

4.5 Where VBC is justified, the level of affordable housing will be calculated as follows:

- Floorspace of existing vacant building is **A** sq m
- Proposed total floorspace of new development is **B** sq m
- Vacant Building Credit = **C** = **A/B x 100%**
- Full requirement under Borough Local Plan Policy HO3 is **D** dwelling units (including any fractions)
- The reduction in the affordable housing requirement due to Vacant Building Credit = **D x C**

The adjusted Affordable Housing Requirement taking account of the VBC = **D – (DxC)**

4.6 Two worked examples of this are set out below:

Residential only scheme

- Floorspace of existing vacant building = 2,000 sq m GIA (A)
- Proposed total floorspace of new development providing 50 dwelling units = 5,000 sq m GIA (B)
- Vacant Building Credit = $2,000/5000 \times 100\% = 40\%$ (C)
- Full requirement under BLP Policy HO3 is 15 affordable dwellings⁸ (D)
- Reduction in affordable requirement due to VBC = $15 \times 40\% = 6$ (DxC)
- **The adjusted Affordable Housing Requirement = 15 – 6 = 9 Affordable Dwellings**

Mixed use scheme

- Floorspace of existing vacant building = 750 sq m GIA (A)
- Proposed development consisting of 1,000 sq m GIA residential (11 units) and 450 sq m retail (B)
- Vacant Building Credit = $750/1450 \times 100\% = 51.7\%$ (C)
- Full requirement under BLP Policy HO3 (30%) = 3.3 affordable units (D)
- Reduction in affordable requirement due to VBC = $3.3 \times 51.7\% = 1.71$ units (DxC)
- **The adjusted Affordable Housing Requirement = 3.30 – 1.71 = 1.59 affordable units**

4.7 When calculating the VBC, communal floorspace, basements and ancillary structures will be included within the total area of proposed floorspace. The

⁸ Assumes 30% affordable housing based on Policy HO3 (1)(b)

Council will not deduct any proposed communal areas before the existing floorspace is calculated as a proportion of the new development.

5. What type and size of affordable housing should be provided?

5.1 Policy HO3(4) of the Borough Local Plan states that:

“The required affordable housing size and tenure mix shall be provided in accordance with the Berkshire Strategic Housing Market Assessment 2016, or subsequent affordable housing needs evidence. This currently suggests a split of 45% social rent, 35% affordable rent and 20% intermediate tenure overall.”

Table 12 in paragraph 7.5.4 of the Borough Local Plan sets out Berkshire SHMA (2016) recommended housing size mix by tenure, as follows:

	1 bed	2 bed	3 bed	4+ bed
Market	5-10%	25-30%	40-45%	20-25%
Affordable	35-40%	25-30%	25-30%	5-10%
All dwellings	15%	30%	35%	20%

Table 12 Housing Size Mix by tenure set out in 2016 SHMA for Eastern Berks & South Bucks HMA

5.2 However, in line with Policy HO3(4), there is more up to date evidence on housing need both in relation to relets and to priority needs on the housing register. There is a high proportion of 1 bed (especially) and 2-bed flats available as relets of existing properties and many households in temporary accommodation need rented family housing. Similarly, the housing register shows a high need for 2 and 3 bed properties for those in priority need. Consequently, the evidence points towards there needing to be more emphasis on houses and the dwelling mix being sought for new build affordable housing in the Borough should be based on the mix set out in Table 1 below (rather than the SHMA figures shown at the end for comparison).

Table 1 Affordable Dwelling Types Sought

	1 Bed Flat	2 Bed Flat	2 Bed House	3 Bed House	4 Bed House	
Rent:						80%
Social Rent 45%	10%	10%	20%	30%	10%	(45%)
Affordable Rent 35%						(35%)
Shared Ownership 5%	5%	10%	5%	0%	0%	20%
Total	15%	20%	25%	30%	10%	100%

- 5.3 The Council's objective is to ensure that the affordable housing that is delivered in the Borough is genuinely affordable to those in need. The Council wants to maximise the delivery of rented housing, particularly social rented housing and especially of 2, 3 and 4 bed houses given the costs and supply pressures faced with respect to the provision of temporary accommodation and to ensure that the priority needs of the Borough are addressed. Increasing the proportion of rented housing set out in Policy HO3 of the Borough Local Plan will be encouraged. Particularly with respect to larger units, the Council may be prepared to reduce the overall quantum of affordable housing to achieve lasting and sustainable housing options for cohorts of service users who cannot easily access other housing products.
- 5.4 Social rent is calculated in accordance with Homes England's "Rent Standard Guidance" dated April 2015 or subsequent guidance. These will normally be a lower rent than "affordable rent."
- 5.5 In order to ensure the affordable rent element of a scheme is affordable to those in need, the Council requires rents (including services charges) to be capped at the Local Housing Allowance rate for the location of the scheme or below, and in any event should not exceed 80% of market value. In the case of 3 bed houses or larger, rents should be capped at no more than 60% of market value. The Borough currently has 4 Local Housing Allowance rate areas (called Broad Market Rental Areas). These are:
- East Thames Valley
 - Chilterns
 - Reading
 - Walton

For further information see the Council's website

<https://www.rbwm.gov.uk/home/council-tax-and-benefits/benefits/local-housing-allowance>

This guidance on rental levels also applies to affordable private rented units provided as the affordable element of a build to rent scheme.

- 5.6 Where shared ownership is provided as the intermediate tenure as referred to in Policy HO3(4) of the BLP, to ensure those homes are affordable to those in need, normally the purchaser would be expected to purchase up to 40% of the initial equity, with a focus on 1 and 2 bed flats for affordability reasons. A subsidised rent of no more than 2.75% is paid on the remainder of the equity.
- 5.7 Shared ownership properties are unaffordable to households on the RBWM Housing Register as even working households do not have sufficient, or any, deposit associated with a mortgage.
- 5.8 In 2021 the Government introduced the First Homes product which is affordable home ownership product that involves a minimum 30% discount off market value with the discount passed on to future occupiers. After the

discount has been applied the first sale price must be no higher than £250,000.

- 5.9 The Written Ministerial Statement⁹ and Planning Practice Guidance introduced transitional arrangements whereby local plans submitted for examination before 28 June 2021 will not be required to reflect the First Homes policy requirement, and the First Homes requirements will also not need to be applied when considering planning applications in the plan area until such time as the requirements are introduced through a subsequent update. The Council has therefore decided not to apply the First Homes policy until such time as it has reviewed the affordable housing policy in the Borough Local Plan. A key issue is that with high house prices in the Borough, only flats would come within the price cap.
- 5.10 The Council's Housing Allocation Policy recognises the need to both define key workers within the Borough and facilitate their access to sustainable and affordable housing options. The development priorities outlined in this document aim to enable the creation of a range of housing products which can be accessed by this group.

6. Where should affordable housing be provided?

- 6.1 Policy HO3(5) of the Borough Local Plan, explained further in paragraph 7.7.7 of the Plan, makes clear that affordable housing should be provided on site. Provision on an alternative site will only be considered if it would result in more effective use of available resources or would meet an identified need, such as providing a better social mix and wider housing choice. Financial payment in lieu of on-site or alternative site affordable housing will only be used in exceptional circumstances to the satisfaction of the Council.

7. If a financial contribution is justified, how should this be calculated?

- 7.1 Where the Council agrees to a financial contribution instead of on-site affordable housing, Policy HO3(6) makes it clear that the contribution will be required to be equivalent to the cost of providing the same quantum of affordable housing that would otherwise be sought on site. This principle relates not just to the overall quantum of affordable housing, but also the quantum of the different tenure types and dwelling sizes.
- 7.2 To assist developers with calculating the level of contribution required and to ensure a consistent approach, the Council has prepared an affordable housing online financial contributions calculator. This will be available on the Council's website when this draft SPD is published for public consultation. The calculator applies the principles set out in Policy HO3(6) and the policy requirements in terms of quantum, tenure and dwelling size of affordable

⁹ 24th May 2021

housing to the calculation of a financial contribution. Further explanation of the basis of the calculation is set out in Appendix 5.

7.3 Funds generated from financial contributions will be used fund new affordable homes through:

- grant funding to registered providers
- direct grant funding to developers
- through a local housing company, providing it is a registered provider
- changing the tenure split of a development to favour of more rented housing, particularly social rented housing.

8. How should affordable housing be provided on a site?

8.1 The Council expects a high standard of design to apply to the affordable housing provided on a site as it does to the market elements of a scheme. For detailed design guidance, developers should have regard to the Borough Design Guide¹⁰.

8.2 In designing for affordable housing, account should be taken of the following:

- Affordable housing should be integrated into the new development. Its appearance in terms of design, materials and appearance and layout should not differentiate it from the remainder of the development - the scheme should be 'tenure blind'.
- The affordable housing should be provided in clusters, to a max of 20 on the larger sites integrated within the development rather than concentrated in one location. Affordable housing should not be 'pepperpotted' with individual dwellings across the site.
- Car parking spaces should be allocated to the affordable homes on the same ratio as for market housing.¹¹
- The affordable housing should be delivered in parallel to the market housing, i.e. not significantly in advance of, or later than the remainder of the development, unless the Council has agreed to vary this approach following an agreed viability assessment process.

8.3 Affordable homes should meet the latest design and quality standards set out in the Homes England Capital Funding Guide or other relevant guidance, as

¹⁰ <https://www.rbwm.gov.uk/home/planning/planning-policy/planning-guidance/adopted-supplementary-planning-documents-spds/borough-wide-design-guide-spd>

¹¹ Note that the Council is currently reviewing its car parking standards and preparing a Parking SPD. Once this is available, reference should be made to this SPD for the appropriate parking standards.

well as the National Design Guide Planning Policy Guidance and the Nationally Described Space Standard.

9. What do I do if I think there is a viability issue with my development?

9.1 Paragraph 58 of the NPPF states:

“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. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

9.2 Paragraph 7.7.9 of the BLP indicates that in exceptional circumstances, where the provision of affordable housing in accordance with this policy is not economically viable, the Council will expect the submission of open book financial appraisal information alongside the planning application. Applicants will be expected to pay for an independent review of the information submitted.

9.3 It is clear both under Government policy and guidance, and the BLP policy, that the need for a viability assessment should be an exception rather than the norm, and it is for the developer to justify the need for a viability assessment.

9.4 The approach to undertaking a viability assessment is set out in the Government’s Planning Practice Guidance. As a basic principle the PPG indicates that:

“Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.”

The PPG also sets out a range of standardised inputs to a viability assessment that developers are expected to follow. Further guidance on viability assessments is set out below:

Is the submission of a viability assessment justified?

9.5 Given that the BLP is up to date, if an applicant wishes to make the case that viability should be considered on a site-specific basis, they should provide

clear evidence of the specific issues that would prevent delivery, in line with relevant Development Plan policy, prior to submission of an application, and explain what has changed since the BLP viability assessment that justifies re-consideration at the application stage. It should be noted that the BLP has been tested against a viability assessment which itself was not designed to set policy requirements at the margins of viability. As such developers will have to demonstrate a very significant margin of movement compared with the BLP viability assessment position.

Approach to preparation and submission of a viability assessment

9.6 If the submission of a viability assessment is justified, the following approach and principles should be applied:

- A viability assessment should be submitted at an early stage and certainly no later than the submission of the planning application
- It should seek to identify the maximum level of affordable housing that is viable, if the full policy compliant level of affordable housing is agreed to not be viable. It should test a policy compliant scheme
- It should be prepared by a suitably qualified viability expert, and where necessary, include input from other specialists (e.g. in relation to construction costs) following the requirement of RICS Financial Viability in Planning: Conduct and Reporting (April 2023)
- The assessment should be undertaken in accordance with the standardised method in the PPG¹², fully justify and evidence all the inputs (costs and values) and highlight where these differ significantly from the assessment for the Borough Local Plan. Appendix 3 sets out details of the main inputs that would be expected to be provided with a viability assessment.
- Developers should justify their target return (profit) level and show why it is the minimum level of return needed for the scheme to proceed. It is expected that significantly lower levels of return should be applied for affordable housing and commercial development
- The scheme and viability assessment need to take account of all relevant planning policy requirements and the impact of the Community Infrastructure Levy charge applying at the time
<https://www.rbwm.gov.uk/home/planning-and-building-control/planning-policy/community-infrastructure-levy/what-development-cil-liable-and-how-it-calculated>
- Viability assessments will be made public via the Council's website except in exceptional circumstances where the applicant has justified the specific elements that are confidential, meeting the public interest test. In any event a summary will be provided.

¹² [Viability - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- As set out in paragraph 7.7.9 of the Borough Local Plan, the cost of the Council commissioning an independent review of the viability assessments will be met by the applicant.

9.7 Two additional important principles underlying the viability process are:

1. Applicants should demonstrate that their proposal is deliverable and their approach to viability is realistic. The applicant should provide evidence to show how the scheme is actually likely to be developed, it should not assume a speculative development model.
2. Applicants should seek to optimise the viability of their development. This includes:
 - Optimising site capacity through a design-led approach within the context of development plan policies, including testing different design options to ensure that onsite affordable housing provision and viability is optimised
 - Ensuring viability is considered at an early stage in the planning process
 - Schemes should not include elements that have an adverse impact on viability where there is not a good planning reason for including them, including where there are policy requirements or planning obligation requirements that are necessary to make the development acceptable
 - Consider the timing of financial contributions and on-site provision before considering a reduction in affordable housing or infrastructure provision.

Benchmark Land Value

9.8 It is expected that a residual land value approach will be taken to viability assessments. As such, the determination of the benchmark land value is a key element of the process. In determining the Benchmark Land Value (BLV) the following principles should be applied:

- The price paid for land should never be used as the basis for the BLV
- Normally BLV should be based on the Existing Use Value Plus (EUV Plus) approach – as highlighted in the Planning Practice Guidance. Any information used in the valuation of the EUV should be clearly comparable in terms of location and condition etc or realistically adjusted.
- Normally the benchmark land value set out in the BLP viability assessment for a similar type of site should be the basis of BLV in an individual site viability assessment at the application stage

- Any premium or uplift over EUV should be fully justified based on a policy compliant scheme (ie fully complies with the development plan)
- BLVs may be informed by BLVs on other policy-compliant schemes that have been accepted for planning purposes. It is important that historic BLVs involving non-policy compliant development are not used as they are likely to inappropriately inflate values for the purpose of BLVs
- It is expected that abnormal costs on a site will lower the BLV

9.9 The use of Alternative Use Value (AUV) needs to be applied with caution and will not be the normal approach to establishing BLV in most instances. Normally, AUV should only be used where a planning permission or consent for the alternative use is in place, there is evidence of market demand for the use and evidence that it would be delivered if the proposed scheme was not granted consent.

Review mechanisms

9.10 Where the agreed outcome of viability testing is that it is not possible to deliver a fully policy compliant scheme, resulting either in a reduced level of affordable housing or other reduced contributions or provision, the scheme will be subject to viability review clauses in the section 106 agreement, as follows:

- Early Viability Review – this includes the following:
 - It applies to all applications where full policy level affordable housing or other contributions required by policy have not been provided
 - It is required if 24 months or more have elapsed between granting of outline or full permission (not reserved matters) and substantial implementation on site, which could be:
 - For flatted development – development has reached first floor level
 - For housing developments – completion of at least one dwelling
 - The review will take place at the point that substantial implementation has been reached
 - 100% of any uplift in profit/surplus is allocated to increased affordable housing provision (preferably on site or if that is not feasible, by a financial contribution). In some instances it may be appropriate for some or all of the uplift in profit to be directed towards infrastructure provision which could not originally be provided in full for viability reasons
 - The uplift is capped by the policy level affordable housing requirement in terms of numbers and tenure.

- Mid Viability Review – for large schemes or for schemes that have stalled for a significant period of time, a mid-stage viability review may be required.
- Late Viability Review – this review:
 - Applies to all schemes not providing policy level affordable housing (subject to the detail below)
 - It should take place once 75% of the dwellings have been occupied/sold/leased
 - It is not required if it is less than 18 months between completion of First stage review and the 75% trigger point
 - If there is no early or mid-stage review, a late stage review will always be necessary
 - 60% of the uplift in profit/surplus will be provided as an affordable housing financial contribution. In some instances it may be appropriate for some or all of the 60% uplift in profit to be directed towards infrastructure provision by means of a financial contribution, which could not be provided in full for viability reasons
 - The uplift is capped by policy level affordable housing requirement (and taking account of any uplift from an early review)
 - The review must be completed and the outcome implemented prior to occupation of the whole development.

9.11 These provisions apply for all schemes where affordable housing is required by Policy HO3 of the Borough Local Plan. A viability review cannot result in a reduced level of planning obligations compared with the original permitted scheme.

9.12 The Council will appoint an independent consultant to review the viability information provided at the review stages and the developer will be expected to pay the cost of that consultant.

How will the Council take account of the outcome of the viability assessment in decision making?

9.13 Following viability assessment, if it is agreed that the scheme cannot deliver the required level of affordable housing or other requirements (ie it is not policy compliant), the reduced benefits and the fact that the scheme may not be able to fully mitigate its impacts will be considered as part of the planning balance.

10. Who should provide affordable housing?

10.1 The Council's strong preference is for affordable housing to be provided and managed by Registered Providers (RPs) or through the RBWM Property Company. The Council works with a range of Registered Providers as follows:

- Housing Solutions – the primary registered provider in the Maidenhead area
- Abri – the primary registered provider in the Windsor/Ascot/Sunningdale areas

Other registered providers currently with affordable housing stock in the Borough are:

- One Housing
- Metropolitan Thames Valley Housing
- A2 Dominion
- Paradigm

Registered providers who manage housing for older people or as specialist housing:

- Anchor Hanover
- Lookahead

Other RPs who have expressed an interest in managing affordable housing in the Borough:

- Sage Housing
- London & Quadrant
- Sovereign Housing

If a registered provider is not included in the list above, please contact us to discuss further. We will update the list above on our website if there are substantial changes to it.

Nominations and tenancies

10.2 Providers of affordable housing will be required to enter into a nomination agreement with the Council. The Council's usual requirement is to include a "nominations protocol" in the Section 106 agreement signed by the landowner or developer. The Council will normally require:

10.3 For rented housing:

- Initial lets – 100% nominations
- Relets – 75% nominations

All lets not subject to nominations being given priority for local households

10.4 For shared ownership

- Initial sales – 100% nominations
- Resales – 100% nominations

10.5 The RBWM Housing Service will nominate households from the Housing Register (and other households in housing need as described in the Housing Allocations Policy) to new build and existing affordable properties. Such nomination rights shall be attached to the dwellings and shall transfer to subsequent tenants/owners of the properties.

Alternative means of delivery

10.6 Policy HO2 (5) of the Borough Local Plan highlights the use of community-led approaches to delivering housing, such as co-housing, community land trusts, and co-operatives, and encourages these in sustainable settlement locations and on allocated sites. Although this SPD does not provide further guidance on rural exceptions schemes, rural exceptions schemes may provide another means of delivering affordable housing through these alternative mechanisms. Policy HO3(8) of the Borough Local Plan highlights the opportunity to develop rural exceptions schemes in the Borough, subject to the criteria set out. Further guidance on rural exceptions schemes is set out in the Government's Planning Practice Guidance¹³.

Grant Funding

Grant funding is not available to fund normal section 106 schemes. Homes England grant funding is available for non-Section 106 proposals where additionality can be demonstrated e.g. 100% affordable housing; or a tenure mix and/or dwelling types which better meet local housing needs¹⁴. In terms of a Registered Provider's offer to a developer for the affordable housing element or as a starting point when assessing viability, no Homes England grant will be assumed.

11. How should affordable housing be secured?

11.1 The Council will secure affordable housing requirements through entering into a legal agreement under Section 106 of the Town and Country Planning Act (1990)(as amended) – a S106 agreement. Further details of the expected main elements of an affordable housing S106 agreement are set out in Appendix 4.

¹³ See Planning Practice Guidance on Housing Needs of Different Groups: [here](#)

¹⁴ For further information see The Government's website: [Apply for affordable housing funding - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/apply-for-affordable-housing-funding)

12. What information should be submitted with a planning application?

Pre-Application

- 12.1 Applicants are strongly encouraged to engage at an early, pre application stage, with the Council on their applications, including the affordable housing proposals. The Council provides a pre application service, details of which can be found on the Council's website via the following link:
<https://www.rbwm.gov.uk/home/planning-and-building-control/planning-pre-application-advice>
- 12.2 An applicant should prepare and submit an Affordable Housing Statement to inform pre application discussions. Key information to include in the Statement include:
- The amount of affordable housing being provided
 - The affordable housing mix including dwelling type, size (floorspace, number of bedrooms, maximum occupancy level)
 - Tenure - the appropriate mix of social rent, affordable rent and shared ownership
 - The number and location of parking spaces
 - Phasing and timing of the affordable housing, including number, type and tenure of affordable housing in each phase. For full planning applications, the location of each of the units, colour coding the affordable units by dwelling type and tenure
 - Details of how the affordable housing should best be integrated into the design of the development
 - Location of any M4(3) wheelchair accessible homes, in line with Policy HO2 of the Borough Local Plan
 - Potential heads of terms of the s106 agreement
 - Highlight if there are any justifiable viability concerns and justification for why there may need to be a viability assessment undertaken (see section 9 for more details on viability)
- 12.3 Pre application discussions will be via the development management case officer who will also consult and involve the Housing Enabling Officer as appropriate.

Application Stage

- 12.4 All applicants for schemes requiring affordable housing provision will be required to submit an Affordable Housing Statement. This should incorporate the elements set out in para 12.2 above from the pre application stage, updating the Statement from the pre application stage to reflect discussion with the Council. Failure to provide an Affordable Housing Statement will result in the application not being validated.

- 12.5 The full details of the affordable housing provision should be set out in an Affordable Housing Scheme which includes some additional detail than that included in the Affordable Housing Statement. Further guidance on the Affordable Housing Scheme is set out in Appendix 3.

13. How will we monitor affordable housing delivery?

- 13.1 Chapter 15 of the Borough Local Plan sets out monitoring indicators for the Plan. These include indicators relating to the amount of affordable housing provided and the tenure. The Authority Monitoring Report will report on affordable housing delivery and this will be made available each year on the Council's website:

<https://www.rbwm.gov.uk/home/planning-and-building-control/planning-policy/evidence-base-and-monitoring/monitoring>

The Housing Enabling Officer monitors proposals, applications and delivery, including detailed breakdown on dwelling types, sizes and tenures when dwellings are completed.

14. Other guidance

- 14.1 The Council has prepared or is in the process of preparing other supplementary planning documents and other guidance of relevance to housing schemes that are delivering affordable housing. These include:

Adopted:

- Borough Design Guide - Adopted 2020

<https://www.rbwm.gov.uk/home/planning/planning-policy/planning-guidance/adopted-supplementary-planning-documents-spds/borough-wide-design-guide-spd>

- Building Height and Tall Buildings SPD – Adopted December 2023

<https://www.rbwm.gov.uk/home/planning-and-building-control/planning-policy/planning-guidance/adopted-supplementary-planning-documents-spds/building-height-and-tall-buildings-spd>

In preparation:

- Sustainability SPD – currently available as a consultation draft:

<https://www.rbwm.gov.uk/home/planning-and-building-control/planning-policy/planning-guidance/emerging-supplementary-planning-documents-spds/home/planning-and-building-control/planning-policy/planning-guidance/emerging-supplementary-planning-documents-spds/sustainability>

- Parking SPD – early stages of preparation

15. Council Contacts

15.1 Development Management: planning@rbwm.gov.uk

15.2 Planning Policy: planning.policy@rbwm.gov.uk

15.3 Housing Enabler:

housing.enabling@rbwm.gov.uk

Appendices

1. More recent evidence on affordable housing need
2. Viability assessment information checklist
3. Affordable Housing Scheme
4. Section 106 contents
5. Financial contribution calculator explanation

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Appendix 1 More recent evidence on affordable housing need

There is more recent evidence on affordable housing needs since the Berkshire SHMA (2016) and the adoption of the Local Plan, particularly in relation to the nature of relets of affordable properties which indicates that alternative mix of affordable dwellings should be provided in order to best meet affordable housing needs. Table A1.1 below sets out the relet data for the Royal Borough over the period October 2020 to June 2023.

Table A1.1 – Relets of Existing Affordable Housing October 2020 – June 2023

Figures **in red** show the mis-match with SHMA figures.

The table shows that over this two-year period, 59% of relets were 1 bed flats which is much higher than the SHMA projection of 35-40%. Only 11% of relets were 3&4

	1 bed flat	2 bed flat	2 bed house	3 bed house	4 bed house	
Relets	396	175	31	70	4	676
%	59%	26%	5%	10%	<1%	100%
SHMA	35-40%	25-30%		25-30%	5-10%	

bed houses. As such, the supply of affordable homes coming forward as relets is exceeding the need identified in the SHMA in relation to 1 bed flats when considered on a proportionate basis. A lower proportion of 1 bed flats is therefore sought in new build developments and a distinction has been made for 2 bed houses which are not highlighted in the SHMA. There is also a case for more 3 bed houses to be provided given the limited supply of relets compared with the SHMA proportions.

In terms of the Housing Register, Table A1.2 sets out numbers of those who are on the Housing Register and the size of property required, although it should be emphasised that they do not represent the priority housing needs.

Table A1.2 Housing Register by demand for size of property (November 2023)

Size of Property Required	Number of Households on Housing Register	%
1 bed or studio flat	184	28%
2 bed	251	39%
3 bed	162	25%

4 bed	40	6%
5 bed	8	1%
6 bed	1	1%
Total	646	100%

Furthermore, analysis of the priority needs of those on the Council's Housing Register has been undertaken. Table A1.3 below sets out the dwelling type needs for the higher priority needs on the Register.

Table A1.3 Housing Register – Homeless Housing Needs (November 2023)

	1 bed	2 bed	3 bed	4 bed	5 bed
Bands A and B	63	99	69	16	2
Total 249 (100%)	25 %	40 %	28 %	6 %	1 %

Homeless housing needs in the above table are those households who have made a homeless application on the Housing Register in priority Bands A and B. Nearly half require permanent 2 bed accommodation but there is also priority need for 3 bed, 4 bed and 5 bed accommodation. The figure has increased from 144 households in October 2022 to 249 households in November 2023 (+73%).

Houses are a preference for families as they have access to a self-contained garden – this includes 2 bed properties as houses rather than 2 bed flats or 2 bed maisonettes.

In addition, the size of bedrooms and number of bedspaces is important to maximise the number of double rooms and family occupancy rather than relying on single rooms which is not a good use of a valuable property resource. This means that:

2 bed properties should be 2x double rooms (4 person)

3 bed properties should be 3x double rooms (6 person)

4 bed properties should be 4x double rooms (8 person)

Additional factors which have influenced the proposed dwelling mix of affordable housing, are clarified below:

- (i) There are families in temporary accommodation who need permanent housing in the form of 3/4/5 bed houses. The average length of stay in temporary accommodation for a family is far longer than a 1 or 2 bed household due to the scarcity of suitable housing (only 11% of relets in the table above are 3 and 4 bed houses).
- (ii) There is scarce availability of 3/4/5 bed houses in the private rented sector at or below the Local Housing Allowance rent level.

- (iii) There is a significant cost to the council to place households in temporary accommodation.
- (iv) New build 3/4/5 bed houses enables a “chain of lettings” whereby smaller affordable dwellings can be released for smaller households in housing need without relying on new build.
- (v) The SHMA affordable housing projections do not breakdown “2 bed” into 2 bed flats and 2 bed houses, so an assessment has been made based on local evidence of housing need.
- (vi) 2 bed houses are preferable to 2 bed flats for families as they normally have more usable floorspace and a private garden. Even if the number of children does not increase, children growing older are socially and practically more easily accommodated in a house rather than a flat.

As a result, as set out in Table A1.4 (and Table 1 in the SPD) the following dwelling mix for affordable housing is sought. This continues to seek the same overall tenure mix set out in the Borough Local Plan Policy HO3(4) but seeks a lower proportion of 1 bed flats and a higher proportion of 2 bed houses compared to the SHMA mix, for reasons set out above.

Table A1.4 Affordable Dwelling Types Sought

	1 bed flat	2 bed flat	2 bed house	3 bed house	4 bed house	
Rent • Social Rent 45% • Affordable Rent 35%	10%	10%	20%	30%	10%	80% (45%) (35%)
Shared ownership	5%	10%	5%	-	-	20%
	15%	20%	25%	30%	10%	100%

Appendix 2 Viability Assessment Information Checklist

The following information is required as part of a viability assessment to ensure that sufficient information is provided to enable an independent review of the assessment to be undertaken:

- a) Application plan
- b) Land ownership plan
- c) Details of the proposed scheme
- d) A schedule of floor areas in terms of GIA and net sales area
- e) A working electronic version of the proposed scheme appraisal and any supporting appraisals such as an existing or alternative use valuation. We would also expect detailed assumptions if not the modelling used to generate affordable housing values
- f) A submission which provides evidence in support of the assumptions adopted this would typically include:
 - i. Relevant evidence of existing/alternative use value e.g. analysed local sales in support of proposed values and where necessary adjusted for condition, location and policy compliance.
 - ii. Relevant evidence of yields and rents where the scheme includes a commercial element
 - iii. Evidence of offers from registered providers
 - iv. Support for all key inputs/assumptions used within the scheme appraisal
- g) A detailed element cost plan – this should be in a format which would facilitate elemental comparison with BCIS and a clear explanation as to any difference from BCIS
- h) Any plans which have been relied upon in preparing the Cost Plan but which have not formed part of the planning submission
- i) A detailed specification for the development. This underpins the cost plan and proposed values
- j) Detailed proposed programme from site acquisition through to final sale

Communication with the independent valuer assessing the appraisal on behalf of the Council should be made via the development management case officer, or at least with the case officer's knowledge.

Appendix 3 Affordable Housing Scheme

Section 10 of this SPD explains that an Affordable Housing Statement is required at the application stage (whether outline, full or reserved matters) to provide sufficient information to enable a decision on the acceptability in principle in relation to the affordable housing element of the scheme, including compliance with policy. However, to ensure that the detail of the affordable housing is right, a more detailed Affordable Housing Scheme is required. This will normally be a requirement of the section 106 agreement at the outline stage, and should be submitted at the earliest opportunity, and ideally at reserved matters stage.

All Affordable Housing

The total number of affordable dwellings in the Sub Phase as a percentage of the total dwellings in the Sub Phase.

The anticipated tenure, size, type, floorspace and occupancy of each of the units eg Accommodation Schedule.

A site layout showing the location of the units eg Tenure Plan.

Location of any M4(3) wheelchair accessible homes, in line with Policy HO2 of the Borough Local Plan. A Part M4(3) Checklist.

The number and location of car parking spaces

Plans showing the indicative internal layout of each type of unit.

Details of the proposed Registered Provider or alternative affordable housing provider that will deliver the units.

Confirmation that all of the units will be rented or sold in accordance with the provisions of the Nominations Agreement.

Social Rent and Affordable Rent

Details of the proposed rent and any service charge for each type of unit and confirmation that these meet the affordability requirements set out in this SPD.

Details of the management arrangements.

Shared Ownership

Details of the anticipated: price; percentage equity to be sold; mortgage payments; rent; service and management charge for each type of unit; and confirmation that these meet the affordability requirements set out in this SPD.

Details of the shared ownership lease and arrangements for resales under which the units will be sold.

Indicative marketing arrangements

Similar details will be required for any tenure not specifically mentioned above.

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Appendix 4 Section 106 contents

The section 106 agreement shall include, but is not limited to the following obligations:

- Payment of the Council's costs for drafting, negotiating and completing the s106 agreement which shall be a minimum non-refundable sum (payable immediately upon instruction);
- Details of the planning application;
- Details of all parties with a legal interest in the land (including mortgagees, beneficiaries, leasehold interests etc) who are required to be party to the deed;
- Site location plan;
- Definition of affordable housing and the different tenures;
- Number of affordable dwellings specifying the mix, size, type and tenure;
- Definition of an affordable housing provider;
- Details of the phasing of the development (if applicable);
- To provide details of an Affordable Housing Scheme (where applicable);
- Details of the sum to be paid as a financial contribution to affordable housing off-site (if applicable);
- Obligation to provide the affordable housing as set out in the s106 agreement;
- Obligation to enter into a Nomination Agreement which shall be in such form as required by the Council;
- Details of triggers for various affordable housing obligations (for example, commencement of development, first occupation etc);
- Obligation to keep affordable dwellings as affordable housing in perpetuity;
- Details of the transfer of affordable housing/affordable housing land to a registered provider;
- Obligation to ensure that the price of affordable dwellings/affordable housing land shall be such that a registered provider has no need for public subsidy;
- Mortgagee sale provisions for affordable dwellings;
- Financial viability review provisions for the provision of affordable housing on-site, or a financial contribution for off-site provision (or a combination of the two);
- Cascade arrangements for the provision of affordable housing should a financial review be required; and
- Requirement for the s106 agreement to be registered as a Local Land Charge by the Council.

Appendix 5 Financial contribution calculator explanation

TO BE ADDED ONCE WE RECEIVE THE AFFORDABLE HOUSING FINANCIAL CONTRIBUTIONS CALCULATOR

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