

Maidstone Borough Council



Affordable and Local Needs Housing
Supplementary Planning Document

FINAL DRAFT
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CONTENTS

SECTION		Page
1	<u>INTRODUCTION</u>	<u>3</u>
2	<u>LOCAL AND HOUSING CONTEXT</u>	<u>4</u>
3	<u>NATIONAL CONTEXT</u>	<u>5</u>
4	<u>DEFINITION OF AFFORDABLE HOUSING</u>	<u>8</u>
5	<u>EVIDENCE OF NEED FOR AFFORDABLE HOUSING</u>	<u>11</u>
6	<u>MIX OF MARKET AND AFFORDABLE HOUSING REQUIRED</u>	<u>13</u>
7	<u>WHEN IS AFFORDABLE HOUSING REQUIRED</u>	<u>16</u>
8	<u>AFFORDABILITY</u>	<u>19</u>
9	<u>INCORPORATING THE AFFORDABLE HOUSING REQUIREMENT ON SITE</u>	<u>24</u>
10	<u>DEVELOPMENT SITE STANDARDS AND CHARACTERISTICS</u>	<u>26</u>
11	<u>MECHANISM AND TIMING FOR THE TRANSFER OF AFFORDABLE UNITS AND LAND</u>	<u>29</u>
12	<u>APPROACH TO EXTRA CARE, OLDER PERSONS AND SPECIALIST HOUSING</u>	<u>32</u>
13	<u>TRANSFER VALUES</u>	<u>33</u>
14	<u>OFF SITE FINANCIAL CONTRIBUTIONS</u>	<u>35</u>
15	<u>VIABILITY</u>	<u>37</u>
16	<u>INFORMATION SUMMARY FOR DEVELOPERS</u>	<u>41</u>
17	<u>CONTACT DETAILS FOR KEY MBC OFFICERS</u>	<u>44</u>

1 INTRODUCTION

[return to contents](#)

- 1.1 Maidstone Borough Council (MBC) has recently adopted its Local Plan (October 2017) and this includes a commitment to produce an Affordable and Local Needs Housing Supplementary Planning Document (the SPD).
- 1.2 The SPD is intended to facilitate negotiations and provide certainty for landowners, lenders, housebuilders and Registered Providers regarding MBC's expectations for affordable and local needs housing provision in specific schemes.
- 1.3 This Supplementary Planning Document (SPD) provides guidance as to how Local Plan policies should be applied in a development viability context when determining planning applications. It aims to provide greater clarity to both applicants and the general public and ensures that the principles of sustainable development are at the forefront of decision-making in the Borough.
- 1.4 The purpose of this Supplementary Planning Document (SPD) is to provide advice on how the Council's Local Plan housing policies are to be implemented. This includes guidance on the range of approaches, standards and mechanisms required to deliver a range of housing to meet identified needs.
- 1.5 Once adopted, this SPD will form a material consideration in the determination of planning applications and should be considered alongside the policies in the Local Plan.
- 1.6 Its guidance should therefore be taken into consideration from the earliest stages of the development process of any site, including any land purchase negotiations and in the preparation of development schemes.
- 1.7 There is a shortage of affordable housing in the Borough and the Council is under significant pressure to deliver new housing to meet objectively assessed needs.
- 1.8 As such the SPD is intended to maximise delivery of truly affordable homes in the borough.
- 1.9 It should be noted that this intention will have its limitations in the context of a difficult macro picture around the housing market and affordability.
- 1.10 This SPD will look to address this through the encouragement of the inclusion of social rent and discounted open market units. Social rents are set at more affordable rates than "affordable rent" and discounted market sale can include larger discounts than normal making them more affordable than shared ownership products.
- 1.11 Every effort has been made to make this guide as comprehensive as possible, but it is not possible to anticipate the needs generated by all types of development. It is the responsibility of those submitting planning applications to contact planning staff at as early a stage as possible to determine whether the potential impacts of a proposed development go beyond the advice given here.
- 1.12 This guide will look at the following items each in separate chapters:
 - Chapters 1 and 2 look at the local and national planning context.
 - Chapters 3 to 7 look at the definition and evidence of need for affordable housing; required mix of units and when affordable housing is required.
 - Chapter 8 deals with affordability of rented and intermediate units

- Chapters 9 to 11 deal with how affordable housing is incorporated on site, how the units are transferred to an RP and the design standards required.
- Chapter 12 deals with housing for the elderly
- Chapters 13 and 14 deal with transfer values from RPs and off-site financial contributions (where applicable).
- Chapter 15 looks at how the Council will deal with viability issues.
- Chapter 16 contains a summary of information for developers and Chapter 17 contains contact details for key officers.

2 LOCAL AND HOUSING CONTEXT

[return to contents](#)

- 2.1 The Borough of Maidstone covers 40,000 hectares and is situated in the heart of Kent. Maidstone is the county town of Kent and approximately 70% of its 155,143 population (2011 census) live in the urban area. The urban area, located in the north west of the borough, has a strong commercial and retail town centre with Maidstone comprising one of the largest retail centres in the south east.
- 2.2 A substantial rural hinterland surrounds the urban area, part of which enjoys designation due to its high landscape and environmental quality. The borough encompasses a small section of the Metropolitan Green Belt (1.3%), and 27% of the borough forms part of the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 2.3 The borough is strategically located between the channel tunnel and London with direct connections to both via the M20 and M2 motorways. Three central railway stations in the town connect to London, the coast and to the Medway Towns.
- 2.4 The town centre acts as the focus for retail development throughout the borough and has an important role to play in the visitor economy with the tourist information centre located at Maidstone Museum. The rural service centres of Harrietsham and Lenham lie on the Ashford International - Maidstone East - London Victoria line; and Headcorn, Marden and Staplehurst lie on the Ashford International - Tonbridge - London Charing Cross and London Cannon Street lines. The larger village of Yalding lies on the Medway Valley Line, Paddock Wood - Maidstone West - Maidstone Barracks - Strood.
- 2.5 The channel tunnel link known as High Speed 1 (HS1) runs through the borough, providing fast links into London (a service links to HS1 from Maidstone West station, via Strood to Ebbsfleet). A number of main transport routes cross the borough including the A20, A229, A249, A274 and A26.
- 2.6 The borough is relatively prosperous with a considerable employment base and a lower than average unemployment rate compared to Kent. However, the borough also has a low wage economy that has led to out-commuting for higher paid work. The local housing market crosses adjacent borough boundaries into Tonbridge and Malling and Ashford, and is influenced by its proximity to London, resulting in relatively high house prices.
- 2.7 As a result of having a Local Plan with site allocations in place, MBC is meeting its overall housing delivery targets and is on course to make up for previous undersupply.
- 2.8 One of the key local issues is meeting housing needs by delivering affordable housing, local needs housing and accommodation for the elderly and to meet rural housing needs (as well as accommodation to meet Gypsy and traveller needs).
- 2.9 Between 2015 – 2019 the Borough delivered 1,744 new affordable homes, of which 63 were delivered on rural exception sites for local needs housing¹. This equates to 218 units per year which is below the target of 322 units per year (identified in the SHMA Jan 2014) and demonstrates the need to aim to provide more affordable housing units.

¹http://www.maidstone.gov.uk/data/assets/pdf_file/0004/9517/Housing-Strategy-2016-20.pdf

3 NATIONAL CONTEXT

[return to contents](#)

- 3.1 This SPD has been prepared in accordance with planning legislation and policy overseeing the processes of securing appropriate contributions and obligations from developments.
- 3.2 Planning obligations or agreements and Unilateral Undertakings are normally entered into in accordance with Section 106 of the Town & Country Planning Act 1990 (as amended). These tend to be referred to on a day-to-day basis as 'Section 106 (S106) agreements' and this term is used throughout this SPD.
- 3.3 Section 106 of the 1990 Act provides that anyone with an interest in land may enter into a planning obligation, which is enforceable by a local planning authority.
- 3.4 An obligation may be created by agreement or by the party with an interest in the land making a unilateral undertaking. Obligations may:
- Restrict the development or use of land
 - Require operations to be carried out in, on, under or over the land
 - Require the land to be used in any specified way; or
 - Require payments to be made to the local planning authority, either in a single sum or periodically.
- 3.5 Obligations run with the land and, providing all parties with an interest in the land enter into the agreement, affect everyone with an interest in it, including successors in title. They are registered as Local Land Charges.
- 3.6 The main principles governing the use of obligations are that:
- They should only be used when planning conditions are not appropriate
 - They are intended to make development acceptable which would otherwise be unacceptable in planning terms
 - They can be used to prescribe the nature of the development (e.g. a proportion of the housing must be affordable), to compensate for loss or damage caused by the development (e.g. loss of open space) or mitigate a development's impact (e.g. increase public transport provision).
- 3.7 All S106 agreements should satisfy the following tests:
- it must be necessary to make the proposed development acceptable in planning terms,
 - it is directly related to the proposed development,
 - it is fairly and reasonably related in scale and kind to the proposed development.
- 3.8 Agreements must be governed by the fundamental principle that planning permissions may not be bought or sold, and they cannot be used to secure a share in the profit from development.
- 3.9 Contributions may be either in kind or in the form of a financial contribution.
- 3.10 Payments can be made in the form of a lump sum, an endowment, or as phased payments related to dates, events or triggers.
- 3.11 Local planning authorities should set out their policy on local standards, including infrastructure contributions and requirements for affordable housing in the Local Plan.

The plan is subject to testing the cumulative impact of policies and requirements on viability, so that the Local Plan can be delivered.

- 3.12 This SPD provides clarity to developers and wider stakeholders on the requirements for infrastructure arising from consented developments, and associated obligations to ensure that the impacts of new developments are appropriately considered and mitigated.

4 DEFINITION OF AFFORDABLE HOUSING

[return to contents](#)

- 4.1 The NPPF provides the definition of affordable housing (as used in this report). The following is taken from Annex 2 of NPPF, February 2019:
- 4.2 **Affordable housing:** housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:
- 4.3 **a) Affordable housing for rent:** meets all of the following conditions:
- (a) the rent is set in accordance with the Government's rent policy for **Social Rent or Affordable Rent**, or is at least 20% below local market rents (including service charges where applicable);
 - (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and
 - (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).
- 4.4 **b) Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.
- 4.5 **c) Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.
- 4.6 **d) Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision or refunded to Government or the relevant authority specified in the funding agreement.
- 4.7 Other relevant definitions within the NPPF include the following:
- 4.8 **Build to Rent:** Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses but should be on the same site and/or contiguous with the main development. Schemes will usually offer

longer tenancy agreements of three years or more and will typically be professionally managed stock in single ownership and management control.

- 4.9 Further guidance on “build to Rent” can be found at <https://www.gov.uk/guidance/build-to-rent>
- 4.10 The government published the guide: ‘Accelerating Housing Supply and Increasing Tenant Choice in the Private Rented Sector: A Build to Rent Guide for Local Authorities in March 2015 which outlines a series of practical options as to how local authorities can support the development of private rented sector homes and the benefits it can offer to local authorities.
- 4.11 Build to Rent should not be viewed as an alternative to the Council’s target tenure rate percentage of the affordable provision to be for social or affordable.
- 4.12 The National Planning Policy Framework states that affordable housing on build to rent schemes should be provided by default in the form of affordable private rent, a class of affordable housing specifically designed for build to rent. Affordable private rent and private market rent units within a development should be managed collectively by a single build to rent landlord.
- 4.13 The Council would expect that the benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme would be 30% of the total number of units.
- 4.14 **Rent to buy.** The Council are open to “rent to buy”, but only for those properties required under affordable home ownership. A suitable example of this is a product called “rent plus” <https://rentplus-uk.com/>.
- 4.15 **Entry-level exception site:** A site that provides entry-level homes suitable for first time buyers (or equivalent, for those looking to rent), in line with paragraph 71 of the NPPF.
- 4.16 The Council is happy to consider the development of Entry Level Exceptions Sites in suitable locations, particularly where these will provide for Local Key Workers.
- 4.17 **Older people:** People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.
- 4.18 **Rural exception sites:** Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either past or current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.
- 4.19 **Self-build and custom-build housing:** Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.
- 4.20 **Intermediate rented housing (no longer defined in the NPPF)** is homes for rent provided at a cost above social rent but below market levels. It does not include

affordable rented housing. Under local policy, Intermediate Rented Housing is included as a form of affordable housing and classed as Intermediate Housing. These homes may be delivered by a Registered Provider or any other Provider.

- 4.21 **'Low cost market' housing** does not meet the definition of affordable housing and is not considered as affordable housing for planning purposes.
- 4.22 The Government have published a consultation in February 2020 on the proposals for the implementation of a First Homes policy. This consultation seeks views on First Homes for local people, considering both the design of this policy and options for its implementation. First Homes are new properties to be sold to local people for at least 30% below market value, prioritised to first time buyers, with the discount preserved in perpetuity. Eligible buyers could be local first-time buyers, key workers or military personnel and veterans.
- 4.23 The Council will monitor the outcome of the consultation and the subsequent impact of the implementation of any final First Home scheme policy and carry out any necessary updates to this SPD accordingly.

5 EVIDENCE OF NEED FOR AFFORDABLE HOUSING

[return to contents](#)

- 5.1 The Government's Green Paper - A new deal for social housing (August 2018)² states that *"there is a continued need for more social housing. Various measures suggest there will be a continued need for more social housing. The number of households is projected to rise, with average annual household growth of around 220,000 over the next few years. Not everyone will be able to meet their housing needs through the market. There are consistently over 1 million households on local authorities' waiting lists. There are over one million households in the private rented sector receiving Housing Benefit, and roughly 50-60,000 households are accepted as homeless and in priority need in England each year.*
- 5.2 At paragraph 143 of the Green Paper it says that *"There remains a long term need for social housing, especially in London and the South East. However, we acknowledge that there are housing pressures in other places too, including rural areas. It is worth bearing in mind that, while social housing supports some of the most vulnerable in our society, 58 per cent of working age social tenants are in work. For many such working tenants, particularly those living in areas of acute affordability pressures, the reality of housing costs will make renting in the private sector or saving for a deposit more difficult."*
- 5.3 The Strategic Housing Market Assessment (updated June 2015) identified that the housing market area for Maidstone overlaps with Ashford and Tonbridge and Malling Boroughs. It identified a net affordable housing need of 5,800 homes from 2013 to 2031, equivalent to 322 households each year.
- 5.4 This is a significant need for the borough and a clear justification for the council to seek affordable dwellings through new development schemes.
- 5.5 Across the Borough as a whole, it is estimated that some 67% of need is for social or affordable rent tenures, whilst around 33% is for intermediate housing. Smaller (one and two bedroom) dwellings account for between 60% and 70% of the need with larger (three and above) dwellings accounting for between 30% and 40%.³
- 5.6 **Local Needs Housing** - Maidstone has a total of 41 Parishes in the Borough. Property within the villages and small towns of Maidstone are expensive; a reflection on the attractiveness of the Borough. This means that many local people are priced out of the housing market and unable to afford to live locally. The result is that many young couples and families have been forced to move away elsewhere in search of more affordable accommodation. This can have a detrimental effect on the balance and sustainability of the local community. Through the provision of affordable housing in rural locations the Council can help local people to remain in the village or town where they have strong family or employment ties.⁴
- 5.7 **Entry Level Access to the Markets** - When assessing housing need, an important consideration is to establish the entry-level costs of housing to buy and rent. The estimated average lower quartile property prices for purchases in 2013 were between £85,000 for a 1 bed dwelling in Maidstone Town Centre to £322,000 for a 4 bed dwelling in Maidstone Rural North. The entry-level cost for private rented accommodation

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf

³http://www.maidstone.gov.uk/_data/assets/pdf_file/0004/9517/Housing-Strategy-2016-20.pdf

⁴http://www.maidstone.gov.uk/_data/assets/pdf_file/0004/9517/Housing-Strategy-2016-20.pdf

indicates that rents range from about £520-£575 per month for a one bedroom home up to around £1,250 per month for a four-bedroom property depending on location.

- 5.8 The Maidstone Strategic Housing Market Assessment (January 2014) showed that over a quarter of households have an income below £20,000 with a further third in the range of £20,000 to £40,000. The overall average income of all households in the Borough was estimated to be around £31,600 with a mean income of £42,000.
- 5.9 Across the Borough it is estimated that around 43% of households are unable to access market housing on the basis of income levels.
- 5.10 There is also a gap between what the Local Housing Allowance (LHA) rate is and what the rent is for private rented properties.
- 5.11 The new Maidstone Strategic Housing Market Assessment release date is not yet known but any policy changes will be included in the Local Plan Review, which is due to be adopted in 2022.
- 5.12 Further information regarding housing need can be found in the Council's Housing Strategy.
- 5.13 Affordable housing for rent, as defined in paragraphs 4.3 and 4.13 above, will be allocated in accordance with the Council's Allocation Scheme which is available to view on the Council's website.

6 MIX OF MARKET AND AFFORDABLE HOUSING REQUIRED [return to contents](#)

6.1 Maidstone Borough Council's Local Plan was adopted in October 2017 and contains the following policies in relation to market and affordable housing:

Policy SP 19 - Housing mix

Maidstone Borough Council will seek to ensure the delivery of sustainable mixed communities across new housing developments and within existing housing areas throughout the borough.

- 1. In considering proposals for new housing development, the council will seek a sustainable range of house sizes, types and tenures (including plots for custom and self-build) that reflect the needs of those living in Maidstone Borough now and in years to come.*
- 2. Accommodation profiles detailed in the Strategic Housing Market Assessment 2015 (or any future updates) will be used to help inform developers to determine which house sizes should be delivered in urban and rural areas to meet the objectively assessed needs of the area. In relation to affordable housing, the council will expect the submission of details of how this information has been used to justify the proposed mix.*
- 3. Where affordable housing is to be provided, developers should also take into consideration the needs of households on the council's housing register and discuss affordable housing requirements with the council's housing team at the pre-submission stage of the planning process.*
- 4. Large development schemes will be expected to demonstrate that consideration has been given to custom and self-build plots as part of housing mix.*
- 5. The council will work with partners to support the provision of specialist and supported housing for elderly, disabled and vulnerable people.*
- 6. Gypsy, Traveller and Travelling Showpeople accommodation requirements will form part of the borough need for housing.*

6.2 With regard to the required affordable housing mix the SHMA ⁵(January 2014) says the following:

There are thus a range of which are relevant in considering policies for the mix of affordable housing sought through development schemes. At a Borough-wide level, the analysis would support policies for the mix of affordable housing of:

- 1-bed properties: 30%-35%
- 2-bed properties: 30%-35%
- 3-bed properties: 25%-30%
- 4-bed+ properties: 5%-10%

6.3 The SHMA (January 2014) goes on to say that the need for affordable housing of different sizes will vary by area across the Borough area and over time. In considering the mix of homes to be provided within specific development schemes, the information herein should be brought together with details of households currently on the Housing Register in the local area and the stock and turnover of existing properties.

6.4 With regard to the provision of market units the SHMA (January 2014) says the following:

⁵ http://www.maidstone.gov.uk/_data/assets/pdf_file/0007/44656/Strategic-Housing-Market-Assessment-2014.pdf

In the market sector we would suggest a profile of housing that more closely matches the outputs of the modelling. On the basis of these factors we consider that the provision of market housing should be more explicitly focused on delivering smaller family housing for younger households. On this basis we would recommend the following mix of market housing be sought:

- 5%-10% 1-bed properties
- 30%-35% 2-bed properties
- 40%-45% 3-bed properties
- 15%-20% 4+ bed properties

The SHMA (January 2014) goes on to say that although we have quantified this on the basis of the market modelling and our understanding of the current housing market we do not strongly believe that such prescriptive figures should be included in the plan making process and that the 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time. The figures can however be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area.

6.5 The recommendations in the SHMA (January 2014) are shown below for ease of reference and should be used to help inform the housing mix proposals for market and affordable housing. NB. Any updated SHMA mix will supersede this table. Applicants would need to demonstrate how the size percentages in the table relate to the chosen mix.

Table 60: Indicative requirements for different dwelling sizes (2011-31)

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

6.6 A particular site's characteristics and the development as a whole should be reflected in the affordable housing mix of dwelling tenure, type and size, taking into account the space standards guidelines for affordable housing. The Council's planning team will advise on the exact tenure, type and size split on each site through pre-application discussions.

6.7 Where an application is in relation to Rural Exceptions Housing, Build to Rent, Entry Level Exceptions sites or other specialist accommodation, the standard mix will not apply.

6.8 **Custom and self-build housing** is housing built or commissioned by individuals or associations of individuals for their own occupation. National planning policy and guidance sets out the need for local planning authorities to identify and take account of such housing need in their area when planning for a mix of dwellings. Whilst the SHMA has not identified a need for custom and self-build housing to be strategically allocated in Maidstone, it is clear that this sector can play a key role in helping achieve a higher level of home ownership, and that policies should be flexible to take account of changing market conditions over time.

6.9 It is recommended that any requirement for Custom and self-build housing is discussed with planning officers at the pre-application stage.

6.10 The provision of any self-build plots will be in addition to the provision of affordable housing.

6.11 **Extra care and sheltered housing schemes**

6.12 Extra care and continuing retirement communities often provide self-contained units for sale to meet the needs of a growing older population. Such developments of self-contained units, where they are within a Class C3 development, will be required to meet the Council's Affordable Housing requirements in **Policy SP20**.

6.13 For the avoidance of doubt, the affordable housing requirements associated with Policy SP20 apply only to the use class C3 element of development proposals.

6.14 Accommodation for **Gypsies and Travellers** is a specific type of housing that councils have the duty to provide for under the Housing Act (2004) but is not subject to the contents of this SPD.

- 7 WHEN IS AFFORDABLE HOUSING REQUIRED [return to contents](#)
- 7.1 Developers and RPs should refer to Local Plan Policy SP20 for details of the target rates for the overall percentage of affordable housing and tenure required.
- 7.2 More information on target rates for affordable and tenure provision can be found within Local Plan Policy SP20 here:
- <http://services.maidstone.gov.uk/docs/October%202017%20Adopted%20Local%20Plan.pdf>
- 7.3 This SPD will be updated regularly so as to reflect any changes in the Council's Policies that may result from the Local Plan review.
- 7.4 For clarification purposes affordable housing requirement referred to in SP20 is a percentage of the number of units proposed in accordance with the market and affordable mixes outlined in the SHMA (January 2014).
- 7.5 In all cases, it is expected that new affordable housing delivered under Policy SP20 will be delivered without the input of public subsidy, which includes grant from Homes England
- 7.6 For clarity Maidstone Borough Council are applying the threshold of 10 units or more as set out in the National Planning Policy Framework (NPPF).
- 7.7 The MBC Local plan says that to support community integration, affordable housing will be provided **on-site**, and alternative provision will not be accepted unless there are **exceptional circumstances** that justify it. Any proposals for off-site or financial provision must be made at the time of the application.
- 7.8 **Vacant Building Credit.** - The Government has introduced a vacant building credit (VBC) to incentivise brownfield development on sites containing vacant buildings. In considering how the vacant building credit should apply to a particular development, the council will consider whether the building has been made vacant for the sole purposes of redevelopment and whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.
- 7.9 **Community Infrastructure Levy (CIL)** - -On 25 October 2017 Maidstone Borough Council formally approved its Community Infrastructure Levy (CIL) Charging Schedule at Full Council. It has been implemented on planning permissions permitted on and from Monday 1 October 2018. Affordable housing is excluded from the Community Infrastructure Levy providing the necessary documentation is completed and submitted to the prescribed timetable.
- 7.10 The definition of existing building vacancy effectively means that a development can only benefit from CIL exemption or VBC but not both.
- 7.11 **Rural Exception Sites (Local Needs Housing)** - Exception sites are small sites in locations where sites would not normally be released for housing development. The housing must remain affordable in perpetuity and priority will be given to occupants who meet relevant criteria, i.e. those who have a specified connection to the settlement – often being residential, employment or family.

Policy DM 13 - Affordable local needs housing on rural exception sites

Outside of Maidstone, the five rural service centres and the five larger villages, the council will work with parish councils and local stakeholders to bring forward affordable local needs housing at its rural communities. The council will grant planning permission subject to the following criteria:

- 1. Development has been proven necessary by a local needs housing survey approved by the council which has been undertaken by or on behalf of the parish council(s) concerned. In consultation with the parish council and registered provider of social housing, the council will determine the number, size, type and tenure of homes to be developed after assessing the results of the survey. The council will also use the housing register to determine where there may be unmet housing needs.*
- 2. People meeting the relevant occupation criteria will be given priority to occupy local needs housing (under the council's housing allocation scheme).*
- 3. Affordable local needs housing will remain available in perpetuity to meet the need for which it was permitted. This will be secured by planning conditions and/or legal agreements as appropriate.*
- 4. Sustainability of the site and its settlement will be a prime consideration in decision making. The council will give preference to settlements and communities where a range of community facilities and services, in particular school, health, and shopping are accessible from the site preferably on foot, by cycle or on public transport. The site must also be safely accessible to and from the public highway by all vehicles using the site at all times.*
- 5. The scale of development must be in proportion to the context of the settlement where it is located.*
- 6. Where national landscape, ecological and heritage designations are affected by the proposed development, proposals must have regard to the designation and its purpose whilst complying with national policy and guidance.*

7.12 The Council actively supports the provision of rural exception sites coming forward across the Borough.

7.13 The Council has stated its intention to work in close partnership with parish councils and local stakeholders in order to maintain and promote sustainable, mixed and inclusive communities.

7.14 The Council will endeavour to ensure that Local Needs Housing Surveys are carried out by every Parish where the Local Parish Council supports this approach.

7.15 This will provide a clear picture of Local Needs Housing across the Borough.

7.16 The Council expects local needs housing schemes to provide 100% affordable housing to meet locally identified needs. As a general rule, the development of local needs housing is facilitated by low land values with plot values of around £10,000, demonstrating the housing is only permitted as an exception.

7.17 However, on rare occasions proposals may include an element of market housing to cross subsidise delivery. This may be to provide financial viability in order to deliver local needs homes and/or be a requirement of the landowner. Where market homes are suggested, the applicant will need to demonstrate to the satisfaction of the Council that a 100% affordable housing scheme has been fully considered and the reasons why it has been discounted.

7.18 If the Council is satisfied that an element of cross subsidy is required to secure a local needs housing scheme, the amount of market housing will need to be at the minimum level required. It is envisaged that the amount of market housing should not exceed 30%

of the total number of homes to be provided within the overall scheme or 3 homes, whichever is the lesser amount.

- 7.19 A fully costed viability appraisal will need to be carried out to justify the inclusion of market housing for cross subsidy purposes.
- 7.20 It is expected that any market homes provide for cross subsidy purposes will only comprise housing which is three bedrooms or less. Two- and three-bedroom homes are the primary size of new market homes required in the Borough as evidenced in the SHMA. Executive style homes will not be permitted.
- 7.21 Unless otherwise agreed by the Council, it is expected all of the market housing units will be sold to people with a local connection to the parish at first sale only.
- 7.22 This would be set out in the Section 106 Agreement.
- 7.23 In order to promote and secure local needs housing, useful information is provided in the Kent Rural Housing Protocol⁶

⁶ <https://www.kenthousinggroup.org.uk/assets/uploads/2017/02/Final-KHG-Rural-Housing-Protocol.pdf>

8 AFFORDABILITY

[return to contents](#)

- 8.1 The largest need in the Borough is for **social rent**. The latest guidance on setting of social rents⁷ says the following:

Registered providers may set the initial rent on properties to be let at social rent at a level that is no higher than formula rent, subject to the rent flexibility level

The basis for the calculation of formula rents is:

- 30% of a property's rent is based on relative property values
- 70% of a property's rent is based on relative local earnings
- a bedroom factor is applied so that, other things being equal, smaller properties have lower rents

- 8.2 In reality what this means is that social rents (set by RPs) are much lower than "affordable rents" and are the preferred option for Maidstone Borough Council as they are the tenure that deal most effectively with affordability issues.

- 8.3 The Council's preference is for social rent and this will be the initial assumed tenure for the rented units. However, it is accepted that the delivery of social rent has been difficult and that the most common rented tenure being delivered is affordable rent. It should also be noted that the Economic Viability Report used to support the Local Plan assumed a tenure split of 70% affordable rent / 30% intermediate and did not include any social rent.

- 8.4 **Affordable rents** – are typically higher than social rents. The intention behind this flexibility is to enable properties let on this basis to generate additional capacity for investment in new affordable housing

- 8.5 Affordable rent housing means accommodation that is:

- (a) provided by a registered provider pursuant to an agreement between that provider and the Homes and Communities Agency (now Homes England) or the Greater London Authority and the accommodation is permitted by that agreement to be let at an affordable rent;
- (b) provided by a registered provider pursuant to an agreement between a local authority and the Secretary of State and the accommodation is permitted by that agreement to be let at an affordable rent; or
- (c) provided by a local authority and the Secretary of State, Homes England or the Greater London Authority has agreed that it is appropriate for the accommodation to be let at an affordable rent.

- 8.6 The rent for affordable rent housing (inclusive of service charges) must not exceed 80% of gross market rent.

- 8.7 Providers should have regard to the local market context, including the relevant Local Housing Allowance for the Broad Rental Market Area in which the property is located, when setting affordable rents.⁸

- 8.8 It is the Council's requirement that RPs cap their affordable rents to LHA levels if the 80% of the gross market rents exceeds the LHA level.

⁷

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740300/180912_Draft_policy_statement.pdf

8.9 The Local Housing Allowance rents can be found by entering the postcode for the proposed scheme into the following website: - <https://lha-direct.voa.gov.uk/>

8.10 The current Local Housing Allowance rate (August 2019) are as follows:

Maidstone Broad Rental Market Area BRMA:

One Bedroom Rate:	£131.11 per week
Two Bedrooms Rate:	£162.29 per week
Three Bedrooms Rate:	£185.86 per week
Four Bedrooms Rate:	£235.41 per week

8.11 "Whether the Council could play a role in delivering affordable housing in the form of social rent on S106 sites, to help meet needs, is the subject of a separate report by the Council entitled *"Communities, Housing and Environment Committee – 17th September 2019 - Housing Delivery Partnership Update"*

8.12 The Communities Housing & Environment Committee took the decision that Maidstone Borough Council should once again start to develop its own portfolio of affordable housing. This decision is reflected in the Council's adopted capital programme, whereby £30m will be invested to develop up to 200 social rented homes.

8.13 Where a developer can demonstrate that the affordable housing targets in policy are not economically viable, the Council will be flexible regarding the tenure split and / or total percentage of affordable housing if this results in the provision of social rent on site. This would be on the basis that it would be "cost neutral" in terms of the overall viability to developers. A viability report would need to be undertaken to ensure that there was 'cost neutrality' and that the development is still viable for the developer.

8.14 For example, some intermediate units could be forgone in exchange for the provision of social rented units as opposed to affordable rented units.

8.15 **Shared Ownership Units** are where the purchaser buys an initial share from a Registered Provider who retains, and charges rent on the remaining equity. The purchaser may acquire further equity shares until the whole home is owned. The purchaser of a shared ownership property needs to enter into a shared ownership lease and has to pay rent on the unsold equity (at a maximum of 2.75%).

8.16 Nationally, there are some general eligibility requirements that anyone wishing to buy a Shared Ownership home must meet. The general eligibility criteria for Shared Ownership is as follows:

- You must be at least 18 years old;
- Outside of London your annual household income must be less than £80,000
- You should generally be a first-time buyer, i.e. you don't already own a home. If you do already own, you must be in the process of selling it;
- You should not be able to afford to buy a home suitable for your housing needs on the open market;
- You must show you are not in mortgage or rent arrears;
- You must be able to demonstrate that you have a good credit history (no bad debts or County Court Judgements) and can afford the regular payments and costs involved in buying a home;

- You should have savings or be able to easily access at least £4,000 to cover the costs of buying a home;
 - In most cases you will also need to have enough savings or be able to easily access a minimum 5-10% of the equity share you are buying, as a deposit.
 - Applicants will also need to have enough savings or be able to easily access funds to cover Stamp Duty.
- 8.17 The Council will explore options it may have in providing help to first time buyers with initial deposits.
- 8.18 Shared ownership lets the applicant buy between 25% and 75% of a home from a housing association. They will pay rent on the rest of the property. The Capital Funding Guide says the following:
- 8.19 The initial rent must not exceed 3% of the capital value of the unsold equity at the point of initial sale, but it can be less.
- 8.20 Providers are encouraged to set rents that average no more than 2.75% of the value of the unsold equity at the point of initial sale.
- 8.21 In setting rents providers must have regard to the affordability of the total housing expenditure to the residents including:
- Mortgage costs;
 - Rent; and
 - Service charges (including the cost of management and insurance).
- 8.22 When shared ownership purchasers acquire further shares in the property (known as staircasing) and potentially purchase all the remaining shares the capital receipt is received by the housing association.
- 8.23 The housing association uses the receipt to offset the private finance originally borrowed to finance the scheme and any grant (apportioned to each unit in relation to its originally retained equity) goes into the Recycled Capital Grant fund to be used to fund further shared-ownership schemes. The Council will seek to ensure that proceeds received by the housing association from the sales of shared ownership schemes are reinvested back into Maidstone wherever possible
- 8.24 It is possible, therefore, for shared ownership units to become fully owned open market units and the receipts used purely to offset the housing associations borrowings.
- 8.25 **Discounted homes for sale** are defined as those available to buy at a discount from what would be their open market value, with the discount applied in a manner so that it remains applicable on future re-sales in perpetuity.
- 8.26 It is the Council's view that, along with the provision of social rented units discounted open market units are the product that would be particularly suited to helping local people get onto the housing ladder. Social rent levels are much more affordable than "affordable rent" and the level of discount applied to the discounted open market units can be adjusted to suit local salary levels.
- 8.27 To ensure that this type of housing is effective, it is essential that these homes are genuinely affordable to local people, reflecting on incomes and house prices.

- 8.28 The purchaser of a discounted home for sale owns 100% of the property but is bound by a covenant upon any resale to apply the same percentage level of discount to the next buyer (there is no rent on the discounted portion of the property).
- 8.29 Discounted homes for sale need to comply with the following principles: -
- Need to be sold at a discount from open market value;
 - Must be genuinely affordable, based on incomes and house prices; and
 - Remain affordable for future occupiers, at a price which remains fixed at a discount percentage of open market value.
- 8.30 The above eligibility criteria for shared ownership will also apply to applicants of “discounted homes for sale”
- 8.31 The number of mortgage providers that will lend on these products are limited where there are S106 restrictions on local connection, resales and mortgagee in possession clauses.
- 8.32 This will have an impact on the level of deposit required (normally 10%) and the interest rates available to borrowers.
- 8.33 The Capital Funding Guide - Help to Buy: Shared Ownership Eligibility and affordability assessment section says the following:
- “6.1.2 - Providers must encourage purchasers to buy the maximum share they can afford and sustain. Providers must sell shares flexibly in accordance with the purchasers’ specific circumstances (e.g. not just to nearest 10%).”*
- “6.1.3 - It is expected that shared ownership properties in a development will be sold across a range of equity shares. Providers must not sell all properties in a scheme at the same equity share regardless of individual purchaser circumstances. However, it is not unreasonable to expect that providers will have a ‘target’ average equity share across shared ownership properties within a development”.*
- 8.34 The Shared Ownership Initial Eligibility and Sustainability Calculator and Guidance note is available to download from Home’s England’s Capital Funding Guide – Help to Buy: Shared Ownership (Section 6.2) – <https://www.gov.uk/guidance/capital-funding-guide/1-help-to-buy-shared-ownership>.
- 8.35 The Bank of England has told lenders to test **affordability** by using a 3-percentage point increase in their current reversion rate – usually the standard variable rate – rather than its previous rule introduced in 2014 which said they should consider a 3-percentage point increase in the Bank Rate.
- 8.36 This ensures that borrower affordability is tested in the event that the borrower is unable to refinance their mortgage at the end of the fixed-rate period, which is appropriate given that — in times of stress — some borrowers may be unable to do this.
- 8.37 As stated earlier in this guide – it should be noted that the Council are open to “rent to buy”, but only for those (30%) properties required under affordable home ownership.

Build to Rent should not be viewed as an alternative to requirement for 70% of the affordable provision to be for social or affordable.

- 8.38 **Help to Buy - Equity Loan** – This is a scheme where the Government lends the purchaser between 10% and 20% of the cost of their new-build home, so that they will only need a 5% cash deposit and 75% mortgage to make up the rest.
- 8.39 Help to Buy is provided by Registered House Builders and is administered by regional “help to Buy” agents. Please visit the Help to Buy website for further information “Help to buy East and South east” - <https://www.helptobuyese.org.uk/>. Please visit the Homes England website for Affordability Guidance.
- 8.40 Help to Buy units are provided by a developer in addition to rather than in place of any affordable homes provided as part of a S106 agreement.

9 INCORPORATING THE AFFORDABLE HOUSING REQUIREMENT ON SITE

[return to contents](#)

- 9.1 Affordable Housing should be integrated within a development and should, as far as possible be indistinguishable from the market housing.
- 9.2 The council seeks fully integrated mixed tenure housing schemes within the market housing and will support a reasonable level of clustering, particularly for any proposed flatted units, to enable small self-contained blocks. The location of the units is to be agreed with the Housing Delivery Team at the pre-application stage.
- 9.3 Following consultation with registered providers (RPs) it is accepted that there are inherent problems with blocks of flats that have shared tenures of open market and rent with regard to ground rents and service charges.
- 9.4 Where flats are provided on site as part of the affordable housing package then these should be in separate blocks with the freehold transferred to the RP. This will enable the RPs to set service charges which are affordable to their tenants/purchasers.
- 9.5 It is essential that landowners / developers consider early in the pre – application process how affordable housing will be integrated into a policy compliant development scheme. The landowner / developer will be required to build into their designs at pre-application stage the percentage of affordable housing required in accordance with SP20 and the occupancy and design requirements detailed in this SPD.
- 9.6 The applicant should clearly set out how the application meets the affordable housing requirement with information on the size, tenure, type and location of the affordable units
- 9.7 The Local Plan refers to potential flexibility to change from shared ownership homes to 'intermediate rented' if market conditions change. Some RPs have experienced a downturn in demand for shared ownership in rural locations where there is a lot of shared ownership coming on to the market at the same time.
- 9.8 The wording of new Section 106 Agreements should incorporate this flexibility so that there is scope for tenure changes to be agreed without the need for Section 106 Agreements to be amended
- 9.9 Shared ownership scheme policy is different in areas where affordable housing is hard to replace, particularly in rural areas. Such areas are identified as Designated Protected Areas (DPAs) under the Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009.
- 9.10 DPAs made under this Order make it less likely that shared ownership homes in England will be lost to the private sector through staircasing.
- 9.11 More information can be found here:
<https://www.gov.uk/government/publications/homes-england-designated-protected-areas>
- 9.12 In order to combat the loss of homes out of shared ownership schemes, landlords within DPAs are either required to cap equitable ownership of homes at 80% or require the homes to be sold back to them once full ownership is reached through the insertion of a clause within the lease. If the landlord is unable to buy back the property, an alternative registered provider may be nominated, or the owner will be able to sell the property on

the open market after a certain period of time has passed (usually 6 months). There is also the further possibility that Homes England will positively consider the provision of funding to help re-purchase the house if the landlord cannot source such funds.

- 9.13 Where shared ownership schemes fall within Designated Protected Areas, developers need to make sure that their shared ownership leases contain the right provisions to make them DPA standard and they need to be aware of their on-going DPA obligations.
- 9.14 It should be noted that local planning authorities in DPAs do have the right to waive the DPA restrictions for new developments in certain circumstances – and the fact that the scheme might not be viable if the DPA restrictions apply to it is an important factor.

10 DEVELOPMENT SITE STANDARDS AND CHARACTERISTICS [return to contents](#)

- 10.1 The characteristics of a site and the development as a whole should be reflected in the affordable housing mix - dwelling tenure, type and size. The tenure, type and size split on each site can be advised through pre-application discussions but should be in accordance with the SHMA and factoring requirements of need contained on the housing register at that time.
- 10.2 The Council are investigating the potential for minimum space standards to be adopted in the Local Plan review.
- 10.3 The Council will normally only accept 2 bed 4-person units 3 bed 5/6-person units and 4 bed 6/7/8-person units where the tenure is for rent. Proposals for 2 bed 3-person or 3 bed 4-person units for rent will not normally be accepted. This is to ensure that an appropriate range and size of affordable dwellings for rent are provided to best meet the identified housing need as demonstrated by the household composition of applicants on the Housing Register.
- 10.4 The land made available for affordable housing on site and as part of the application should be fully serviced and of a sufficient size to accommodate the range and type of dwellings necessary to meet the identified housing need and should not be based on the minimum site area possible to accommodate the specified number of units.
- 10.5 Housing proposals will be expected to make efficient use of land. Any proposal that appears to have an artificially low density in order to avoid the required thresholds for affordable housing will be scrutinised and may be refused planning permission, where they fail to make efficient use of land and provide appropriate levels of affordable housing. The same applies to any site that appears to have been deliberately sub-divided as a possible measure to avoid the required affordable housing threshold.
- 10.6 Affordable housing provided on-site must be designed to a high standard and, as far as possible, fully integrated into the overall scheme layout, rather than concentrated in just one location.
- 10.7 Consideration of the grouping of affordable housing in the overall scheme will include how the provision relates to phasing within the same development. This includes where there is a degree of separation provided by roads, open space or landscape feature; and the grouping of affordable housing in nearby previously developed schemes.
- 10.8 Affordable housing units should, as far as possible, aim to be 'tenure blind' so that affordable and private homes are virtually indistinguishable from one another in terms of design quality, appearance, materials and site location. This will help to avoid visual separation between private and affordable housing.
- 10.9 Account should be made to relevant design and quality codes and standards as set out by the Homes England or other associated national bodies as well as though produced locally e.g. Building for Life 12.
- 10.10 With regard to D.C.L.G. Nationally Described Space Standards⁹ the Council are keen to incorporate these for all tenure types, but this will be done in a co-ordinated way through the Local Plan Review rather than as part of this SPD.

⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard_Final_Web_version.pdf

- 10.11 Where appropriate, development will be required to meet and maintain high standards of accessibility so all users can use them safely and easily. Account should also be taken of any requirements for the provision of wheelchair user dwellings, dependant on the suitability of the site and the need at the time.
- 10.12 For further information see the following link:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/540330/BR_PDF_AD_M1_2015_with_2016_amendments_V3.pdf
- 10.13 In such cases a wheelchair user dwelling means a dwelling which meets the requirements contained in Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b) for wheelchair accessible dwellings as contained in Category 3 – wheelchair user dwellings of Schedule 1 of the Building Regulations 2010.
- 10.14 In order to properly accommodate these requirements developers will need to allow additional space when designing wheelchair user dwellings, over and above that which is required by Nationally Described Space Standards. This should be approximately 20% of the Gross Internal Area in the case of flats and 30% of the Gross Internal Area in the case of houses.
- 10.15 The requirement for wheelchair provision will be secured through the relevant s106 agreement and in order to demonstrate compliance with the furniture schedule contained in M4(3) manoeuvring zones and furniture of the correct sizes will need to be clearly indicated on the submitted unit layouts.
- 10.16 Any requirements for fully wheelchair accessible housing will be considered on a site by site basis, dependant on need and suitability of the site and proposed affordable housing mix at the time.
- 10.17 There is an expectation that all affordable units mainly those for rent will be built in accordance with Part M4(2).
- 10.18 Appropriate provision should be made for car parking for the affordable housing units, in line with that for open market housing
- 10.19 The Council will encourage the provision of lifts in blocks of flats to ensure homes are accessible to everyone. Lift provision is particularly encouraged on sites where housing suitable for older people and specialist housing, is proposed.
- 10.20 The Council would expect to see lifts to be provided in all blocks of 4 or more storeys where affordable housing is being provided on-site. The Council would expect this to be part of the pre application discussions.
- 10.21 As part of the government's housing and construction 'Red Tape Challenge', there has been a move to consolidated standards into a national framework centred on the Building Regulations. The government suggests that the large number of competing standards can be confusing, and that "standards are all drawn from documents produced by non-Governmental groups who perceive that current national guidance, policy or regulation is deficient in some respect, and needs to be supplemented. They are rarely subject to cost benefit analysis when they are developed, unlike government guidance or regulation.
- 10.22 As a consequence, the Code for Sustainable homes can no longer be a requirement of planning conditions, and where a local planning authority adopts a policy to provide

enhanced accessibility or adaptability, they should do so only by reference to Requirement M4(2) and / or M4(3) of the optional requirements in the Building Regulations.

11 MECHANISM AND TIMING FOR THE TRANSFER OF AFFORDABLE UNITS AND LAND

[return to contents](#)

- 11.1 The following section deals with the range of issues likely to be covered by a planning obligation in different circumstances.
- 11.2 Affordable housing secured through a planning obligation will ensure the provision of the necessary units as part of the overall scheme generally through developer-built homes.
- 11.3 This involves the developer building the affordable housing in accordance with the design standards and requirements of the approved Registered Provider and then transferring the ownership and management of the housing to the Registered Provider or any HDP of which MBC is a member, at an agreed price.
- 11.4 Maidstone Council do not have an “approved list” of Registered Providers but those working in the Borough include the following (these are arranged in order of stock levels within the Borough:

Maidstone Borough Council (and any RP of which might be a member of any Housing Delivery Partnership).

Golding Homes Limited

Hyde Housing Association Limited

Town and Country Housing Group

West Kent Housing Association

Clarion Housing Association Limited

Heart of Medway Housing Association Ltd

Sanctuary Housing Association

Orbit South Housing Association Limited

Senacre Housing Co-operative Limited

Places for People Homes Limited

Moat Homes Limited

Housing & Care 21

Plexus UK (First Project) Limited

Allnutt Mill Housing Co-operative Limited

Oast Wood Housing Co-operative Limited

Gravesend Churches Housing Association Limited

Westree Road Housing Co-operative Limited

Anchor Hanover Group

Home Group Limited

Orbit Group Limited

The Honywood and Douglas Charity

Oakapple Housing Co-operative Limited

English Rural Housing Association Limited

The Riverside Group Limited

Peace Cottages Charity

Accommodation Yes Limited

Advance Housing and Support Limited

First Priority Housing Association Limited

Golden Lane Housing Ltd

Inclusion Housing Community Interest Company

London & Quadrant Housing Trust

Places for People Living+ Limited

Sage Housing Limited

Reside Housing Association Limited

Trinity Valley Housing Association Limited
Funding Affordable Homes Housing Association Limited
Heylo Housing Registered Provider Limited
Auckland Home Solutions Community Interest Company
Metropolitan Housing Trust Limited
Thames Valley Housing Association Limited

- 11.5 Further details can be obtained from the Council's Housing Delivery Team. There would be an expectation on the Council's part that any RP that the developer uses should be able to demonstrate a local management presence.
- 11.6 The Council supports the role that Housing Co-operatives can play in providing affordable housing. A housing co-op is a housing organisation which exists as a landlord, managed partly or fully by its tenants. Co-ops are one model of Community-Led Housing. Co-ops which allow people to control their homes and build a supportive community.
- 11.7 In some circumstances however, affordable housing is provided through serviced plots which are made available to the Local Authority or an approved Registered Provider at nil cost, with a guarantee that the plot will subsequently only be used to construct the necessary affordable housing in conjunction with the nominated Registered Provider.
- 11.8 With both approaches the Borough Council will require the developer to have agreed a suitable affordable housing partner and to have entered into a contract with them to deliver the affordable housing units prior to work beginning on site, on any development or phase of a development. Early engagement with an RP is vital. See also [6](#)
- 11.9 In cases where developers are experiencing difficulties securing a housing partner, they will be required to provide a copy of their brief inviting offers from Registered Providers and the names of the Registered Providers invited to offer. Registered Providers who choose not to submit an offer in such cases will also be asked for their reasons, in order for the Borough Council to establish what obstacles may prevent a developer securing an affordable housing provider and to assist them in overcoming them.
- 11.10 The initial consultation period revealed that many developers find it difficult to obtain realistic offers from RPs for smaller sites where the affordable housing requirement is less than 20 units.
- 11.11 On sites where the requirement is for less than 10 units developers are experiencing real problems in obtaining offers from Registered Providers.
- 11.12 In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including being flexible to allow single tenure affordable housing on small sites with a preference for social rent or providing an offer for the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider.
- 11.13 The Council uses a standard form of Nomination Agreement and a draft will be appended to the Planning Obligation with the expectation that the finalised agreement will be in substantially the same form. The developer must take into account the timing and processes required to ensure that such an agreement is in place prior to the occupation of the affordable housing units.

- 11.14 Within flatted development, due to management, service charges and other requirements, rented and shared ownership units must be located on separate floors, around separate cores/ entrances or, **preferably**, in separate blocks to both each other and to open market units.
- 11.15 The Council are seeking developers to provide the affordable flatted housing units in small clusters, around the development. On high density flatted schemes, it may be agreed by the Borough Council to allow blocks containing more affordable housing units, provided that the design does not seek to concentrate the affordable housing into flats at the expense of integration.
- 11.16 Phasing the timing of the delivery of affordable homes should be set out in the S106 agreement and linked to the occupation or transfer of dwellings.
- 11.17 Delivery of open market dwellings that significantly outstrip the delivery of affordable dwellings will not normally be supported. The Council will require the completion and transfer of all the affordable housing prior to the occupation or transfer of all the open market homes.
- 11.18 Typically, no more than 50% of the open market housing is to be occupied or transferred prior to the equivalent proportion of the affordable homes are ready for occupation.

12 APPROACH TO EXTRA CARE, OLDER PERSONS AND SPECIALIST HOUSING

[return to contents](#)

- 12.1 The Local Plan acknowledges that Retirement homes (sheltered housing) and extra care homes (assisted living) are not as viable as other residential uses in Maidstone. A **20% affordable housing** rate will be sought for such developments, which will allow for an appropriate balance between affordable housing need and supporting infrastructure provision.
- 12.2 For the avoidance of doubt, the affordable housing requirements associated with Policy SP20 apply only to the use class C3 element of development proposals.
- 12.3 Residential care homes or nursing homes, where 24 hour personal care and/or nursing care are provided, are shown to be even less viable than retirement homes. These schemes are not required to provide affordable housing either on site or as an off-site financial contribution.

Policy DM14 - Nursing and care homes

Within the defined boundaries of the urban area, rural service centres and larger villages, proposals for new nursing and residential care homes through new build, conversion or redevelopment and for extensions to existing nursing and residential care homes which meet the following criteria will be permitted:

- 1. The proposal will not adversely affect the character of the locality or the amenity of neighbouring properties by means of noise disturbance or intensity of use; or by way of size, bulk or overlooking; and*
- 2. Sufficient visitor and staff vehicle parking is provided in a manner which does not diminish the character of the street scene.*

- 12.4 The accommodation needs of Maidstone's ageing population will vary. Some will be able to continue to live in their own homes with the option, potentially, of receiving care at home. Specialist sheltered accommodation and/or extra care accommodation will also help to meet needs. In planning terms such accommodation falls within C3 use (dwelling house).
- 12.5 In addition, there will be a further demand for care and nursing home places particularly for the more frail elderly; it is estimated that 980 additional nursing and care home places will be needed in the borough (2011-31).

13 TRANSFER VALUES

[return to contents](#)

13.1 To assist in determining the viability of schemes and to aid the calculation of off-site contributions, we have conducted research into transfer values and the most appropriate means of determining such values; whether they should be fixed, based on a £ per m² or a % of open market value.

13.2 Our conclusion was that transfer values should be fixed and for each Local Housing Allowance area, the price a Registered Provider could pay has been based on capitalised Local Housing Allowance rents.

13.3 We have applied a yield of 6% to the rents after deducting a management charge of £1,150 and “voids and bad debts” at 3%.

13.4 The capitalised values for the Maidstone Broad Rental Market Area BRMA are as follows:

affordable housing rented unit	LHA rent	Transfer value based on standard assumptions
1-bed	£131.11 per wk	£94,462
2-bed	£162.29 per wk	£121,485
3-bed	£185.86 per wk	£141,912
4-bed	£235.41 per wk	£185,000

13.5 Shared ownership units are assumed to have a transfer value equivalent to 65% of the open market value. This will vary on a site by site basis depending on the initial share sold and the rent on the unsold equity. Any offer from an RP would be subject to specification and a Red Book valuation and would be dependant on whether the sale of units was on a turnkey basis or stage payments.

13.6 Based on a purely arbitrary open market value of say £300 per ft² the following table shows transfer values for typical shared ownership units:

shared ownership unit	floor area	open market value	Transfer value based on 65% of Open market value
1b2p	58m ²	£187,298	£121,744
2b4p	79m ²	£255,113	£165,823
3b5p	93m ²	£300,323	£195,210
4b6p	106m ²	£342,304	£222,497

13.7 Furthermore, there is still the flexibility allowed through the 'viability appraisal' route as set out in Policy SP20 of the Local Plan.

13.8 This will allow account to be taken of occasions when values cannot be achieved, and a Registered Provider cannot meet the transfer value expected.

13.9 Where this is the case and it affects the overall viability of a scheme, such evidence will need to be reflected in a viability appraisal. The proposed alternative transfer value must be based on an independent valuation carried out by a suitably qualified (RICS) local valuer, the cost of which should be borne by the applicant.

13.10 It is therefore important that developers discuss the transfer of housing to Registered Providers as early in the process as possible and preferably prior to the submission of a planning application.

13.11 These transfer values will be updated in accordance with guidance from the Borough Council's Housing Delivery Team as and when required.

13.12 However, this would not prevent social rented units being provided on any scheme.

13.13 No separate values have been provided for social rent and affordable rent. This is because "affordable rents" and "social rents" are set as per the draft policy statement which can be found at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740300/180912_Draft_policy_statement.pdf

13.14 The values shown above for rented units reflects the need to ensure that rents are within the Local Housing Allowance for the area, and that the units will be affordable for households in need, and to allow the potential for social rented units to be provided where possible.

14 OFF SITE FINANCIAL CONTRIBUTIONS

[return to contents](#)

14.1 As stated earlier in this SPD, the MBC Local plan says that to support community integration, affordable housing will be provided **on-site**, and alternative provision will not be accepted unless there are **exceptional circumstances** that justify it. Any proposals for off-site or financial provision must be made at the time of the application.

14.2 Reasons for accepting an off-site contribution could include:

- Existing provision
- Where a site is unable to offer housing that meets the requirements of a Neighbourhood Plan or Supplementary Planning Document.
- Where the council has an overriding need to safeguard or provide affordable housing elsewhere in the borough to meet other strategic housing objectives or Neighbourhood Plans.
- Where the scheme design, such as studio flats would make the site unsuitable for affordable housing.

14.3 Following the initial consultation with stakeholders it is apparent that the Council's current methodology for calculating off-site contributions is too complicated and needs simplification.

14.4 Should the Council agree that the affordable housing requirement is best provided as an off-site financial contribution the financial contribution should be calculated as if the units were to be provided on site.

14.5 The amount should equate to the difference between the market value of the unit and the amount a Registered Provider would pay for that unit based on the required housing mix for that site.

14.6 The market value of the units would be established and verified on a site by site basis.

14.7 The applicant would need to demonstrate with evidence from market research and advice from local estate agents the open market values.

14.8 If necessary, the Council will engage an independent consultant to check that the open market values are fair and reasonable. The cost of this service would be expected to be met by the applicant.

14.9 This amount is then multiplied by the number of units sought (whole or fraction) based on the policy target percentage.

14.10 An example of how this would work in practice is shown below

14.11 Site in Maidstone Broad Rental Market

No of units in total			20 x two-bed houses
Affordable housing requirement:	30%	=	6 x two-bed houses
Tenure split	70/30	=	4.2 rent and 1.8 intermediate

Assuming a market value for the 2 bed units of, say £240,000, this equates to a total GDV for the open market units of £1,440,000

If the units had been provided on site, then the transfer value assumed would be:

Rent -	£121,485 x 4.2 =	£510,237
Intermediate -	£156,000 x 1.8 =	£280,800
TOTAL -		= £791,037

Difference between open market value and transfer price = £648,963

14.12 Many Council's make allowances in their financial contribution for the difference in profit levels between providing open market units on site and affordable housing on site. This has the effect of reducing the overall financial contribution.

14.13 However, this difference in profit is offset by the extra revenue potentially received by the developer given that the site is now 100% open market and also accounts for the extra costs involved for both the Council and RPs in finding alternative sites and schemes for the off-site contribution.

14.14 The commuted sum calculation spreadsheet will be updated to incorporate the above methodology.

14.15 The rental levels used in the calculation sheet will be the latest Local Housing Allowance rates - <https://lha-direct.voa.gov.uk/>

15.1 Paragraph 57 of the NPPF states the following:

“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.”

15.2 The Local Plan has been adopted recently (October 2017) and the affordable housing and CIL requirements have been tested in the Maidstone Borough Council Revised Plan and CIL Viability Study¹⁰

15.3 The Council therefore only expects a viability Housing assessment to be submitted for a Policy SP20 site in unusual circumstances. In such circumstances the onus is on the developer to demonstrate why in their case the site-specific circumstances mean the Local Plan policy is not viable, together with clear bespoke evidence.

15.4 The Council will expect publication of Economic Viability Assessments in accordance with national and local requirements. The following guidance sets out the Council's expectations for Economic Viability Assessments:

- Must be in accordance with the requirements of the National Planning Practice Guidance
- Must include an executive summary
- Provide a clear account of the extraordinary and site-specific costs or the other very special circumstances which make the scheme unviable
- Provide detailed and bespoke evidence behind all non-standard benchmark assumptions
- Provide all measurements in square metres and consistent with submitted plans
- Appraisals will be expected to have considered value engineering or scenario testing different development options which might improve viability (for example different mixes of tenure, unit type and size and phasing)
- Have a realistic and sound land value

15.5 Rural exception sites work because the land coming forward will not obtain planning permission for 100% market housing, but it would provide a significant uplift in value compared with agricultural land.

15.6 Exception sites have a land value that sits between agricultural and 'hope' value. The price agreed for the land is important, so as to ensure that the housing provided remains affordable

15.7 On rural exception sites typically £10,000 to £15,000 per plot for the base land cost or no more than ten times the agricultural land value at the time, whichever is lower (including site abnormalities) will be accepted as a benchmark land value.

¹⁰ http://www.maidstone.gov.uk/data/assets/pdf_file/0011/94736/Revised-Plan-and-Community-Infrastructure-Lewy-CIL-Viability-Study-2015.pdf

- 15.8 The Rural Affordable Housing on Rural Exception Sites - A Hands-On Guide for Landowners –
https://2391de4ba78ae59a71f3-fe3f5161196526a8a7b5af72d4961ee5.ssl.cf3.rackcdn.com/5715/0357/7205/land-owner_guide-final.pdf
says the following:

“These sites have no open market housing value, so typically, if you sell the land to a housing association or community housing organisation you can expect around £100,000 - £120,000 per acre (£10k a plot), but with some small variation reflecting local and site circumstances. This compares with an agricultural value that is typically around £6,000 to £15,000 per acre.”

- 15.9 In accordance with the revised NPPF viability assessments will be made publicly available along with all information relevant to any planning application.

- 15.10 Where a reduced percentage of affordable housing or a financial contribution below the full policy equivalent is accepted based on viability the Council will reserve the right to implement a viability review mechanism and/or impose a planning condition requiring that the development must begin within a timescale shorter than the relevant default period, in case of an improvement in market conditions.

- 15.11 The new NPPF and supporting Planning Practice Guidance (PPG) also provided updated guidance on viability. Paragraph 009 of the PPG on Viability refers to review mechanisms for assessing viability. It confirms that contributions can be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. In light of this it is proposed through this SPD that where contributions are reduced below the requirements set out in policies of the Local Plan (or as superseded by other policy and guidance) the Local Planning Authority may require the developer to enter into a review mechanism.

- 15.12 Where there are significant unknowns and/or acceptance of very high proposed abnormal costs it may be appropriate to re-assess costings at the end of the development process to capture any potential contribution from costs that were over estimated

- 15.13 A viability assessment which demonstrates a level of return which the Council considers to be below a reasonable return suggests the site is not deliverable. Where the appraisal also shows financing costs the Council will require the submission of documented evidence from the lending organisation which demonstrates that lending has been secured against that level of return.

- 15.14 Issuing undeliverable planning consents merely causes stalled sites and land-banking. Proposals where a submitted viability assessment demonstrates marginal viability or that the scheme will not make a reasonable level of return will not normally be supported, as these sites cannot be considered deliverable and developable applying the definition in the NPPF.

- 15.15 It is not sufficient for developers to argue that they did not take into account the need to provide affordable housing in the amount they have paid for the land as it is reasonable to expect that land values will reflect the requirements of the Local Plan. The Council also considers that any normal development costs, such as site demolition, preparation, retaining walls, piling, infrastructure provision and flood mitigation should be established at the outset and reflected in the amount paid for land.

- 15.16 Government guidance confirms that as the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project.
- 15.17 The information required for the submission of a Viability Appraisal is set out below
- 15.18 Developers are encouraged to use the residual land value method as set out as this will assist in speeding up the consideration of submitted evidence.
- 15.19 Where there is dispute concerning the effect of providing affordable housing on the viability of a project, applicants will be required to provide full financial details to demonstrate why they cannot provide the affordable housing. They will also need to demonstrate that in making this assessment they have considered indicative transfer prices set out in this SPD.
- 15.20 It is not sufficient for applicants to argue that the land costs did not take into account the need to provide affordable housing as, in the national plan led planning system, it is reasonable to expect that land values will reflect the requirements of the Local Plan. In addition, it is also reasonable to expect that development costs will have been established from the outset by the developer and reflected in the land acquisition price.
- 15.21 Where developers raise issues relating to viability during pre-application discussions, the Local Planning Authority's Viability Assessor will invite the developer to provide details of the value of the completed development and all costs incurred to achieve this value. The information that should be included is set out below, however other factors may need to be added.
- 15.22 The Council will commission its own choice of independent expert and the expert's fees will be agreed with the applicant. The Developer will be expected to pay the fees.
- 15.23 In instances where the Developer does not provide sufficient or adequate information for the Viability Assessor to make a satisfactory assessment the Developer will be advised what further information is required.
- 15.24 In instances where the developer pushes ahead with the application without a satisfactory assessment being made, the application may well be recommended for refusal.
- 15.25 If there is a disagreement or a dispute concerning the Council's own valuation, a second independent assessment will need to be undertaken by an external valuation expert. It is expected that the costs of providing this second valuation should also be borne by the Developer.
- 15.26 The 'onus' is on the developer to demonstrate why a site should not include provision. This is fully supported by the updated NPPF.

Information Required for A Viability Assessment

SECTION A - Scheme Overview

- Total Site Area
- Non-Developable Area
- Net Developable Area
- Benchmark Land Value – based on Existing Use Value Plus an uplift
- Spreadsheet showing the total numbers of market housing and affordable housing indicating the tenure.
- Spreadsheet showing dwellings including type (detached / semi / terrace / flat / bungalow) and number of bedrooms including individual gross internal areas (in m2).

SECTION B – Development Value

- Market value of each open market house (by type) including £m2
- Ground rents statement
- Details of any retail or commercial units in mixed use schemes – build costs, revenues and yields
- Transfer value of any rented product
- Sales values / transfer values of intermediate units

SECTION C – Construction

- Build costs per sqm including preliminaries (BCIS median rate as a norm unless more detailed QS data is provided).
- External works including infrastructure (an appropriate percentage unless more detailed information is submitted)
- Abnormals (detailed breakdown of costs which would not be covered in build costs or externals such as demolition)
- Scheme timings – construction and sales periods
- Contingency (percentage of build costs)

SECTION D - Other Costs

- Site acquisition costs – including agent fees, stamp duty and legal fees
- Professional fees (Percentage of GDV)
- Sales and marketing costs
- Finance costs (cost of borrowing money to finance a scheme).
- CIL / S106 – details of CIL and any other S106 costs

SECTION E – Profit and Overheads

- Profit on open market units – 15% to 20% on GDV
- Profit on affordable units – 6% on cost

SECTION F – Residual Land Value

- The preferred methodology is to carry out a residual land valuation based on the information above which is then compared to the Benchmark Land Value. If the residual land value is higher than the benchmark, then the scheme is considered to be viable. If not, then adjustments would need to be made to the affordable tenure mix and consideration given to a reduction in the overall percentage of affordable housing delivered.

16. INFORMATION SUMMARY FOR DEVELOPERS

[return to contents](#)

The following is a brief checklist for developers when considering the affordable housing provision as part of a planning application in the Maidstone Borough Council area.

- 15.27 The first assumption should be that the development will aim to be policy compliant with the Local Plan. (Too many developers start from the premises that they will be providing their own preferred mix of market units and will be delivering the least number and smallest sizes of affordable housing).
- 15.28 Developers are reminded that they should adhere to all of the policies in the adopted Local Plan. For example Policy DM 2 - Sustainable design.
- 15.29 Developers should engage with the council's Housing department, Planning department and with registered providers at the earliest stage of the application process to determine whether a Planning Performance Agreement is appropriate. This should also include consideration of an appropriate tenure split, investigating whether the rented units could be delivered as social rent and what is the most appropriate form of intermediate housing. Contact details for officers can be found at the end of this SPD
- 15.30 Developers should also make contact and liaise with the Council's Housing Delivery team.
- 15.31 The mix of open market units and affordable units provided on site should, where possible, comply with the mix outlined in the SHMA (January 2014):
- 15.32 The SHMA (January 2014) says that although we have quantified this on the basis of the market modelling and our understanding of the current housing market we do not strongly believe that such prescriptive figures should be included in the plan making process and that the 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time. The figures can however be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area.

Where affordable housing is to be provided, developers should also take into consideration the needs of households on the council's housing register and discuss affordable housing requirements with the council's housing team at the pre-submission stage of the planning process.

Table 60: Indicative requirements for different dwelling sizes (2011-31)

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

Ideally the sizes of the affordable units should be:

- 1 bed 2-person flats
- 2 bed 4-person flats or houses
- 3 bed 5/6-person units

- 4 bed 6/7/8-person units.
- 15.33 Ideally developers will liaise with a number of RPs active in the area and will be able to decide on which is their preferred partner.
- 15.34 If difficulties are encountered, then the Council will endeavour to deal with the brokerage role itself or may look at alternative delivery methods including providing the affordable units themselves or in conjunction with the developer.
- 15.35 This may include substituting the affordable rent and intermediate units on site for discounted open market units where the discount is much larger than usual and represents the same transfer value. The discount would be in the region of 50%.
- 15.36 This would enable the units to be provided on site by the developer rather than accepting an off-site contribution.
- 15.37 Developers should consider early in the pre-application process how affordable housing will be integrated into a policy compliant scheme.
- 15.38 Developers will need to agree with RPs the specification of the affordable units and agree on a payment structure. This could either be on a 'stage payment' or 'turn key' basis.
- 15.39 Developers will be encouraged to explore ways in which more social rent could be incorporated into the overall affordable housing package.
- 15.40 As stated earlier in this SPD - The Council will be flexible regarding the total percentage of affordable housing and / or tenure split if this results in the provision of social rent on site. This would be on the basis that it would be "cost neutral" in terms of the overall viability to developers.
- 15.41 An Affordable Housing Statement should be provided as part of the planning application, clearly setting out how the application meets the affordable housing requirements. This statement should contain details of the size, tenure, type and location of the affordable units.
- 15.42 A typical Affordable Housing statement should include details of the following:
- the total number of all residential units;
 - the number of affordable units; numbers of bedrooms and property types across all tenures to demonstrate representative mix of unit types and sizes;
 - plans showing the location of units;
 - the different levels or types of affordability or tenure proposed for different units- this should be clearly and fully explained in line with policy expectation;
 - design standards (ideally - D.C.L.G. Nationally Described Space Standards compliant) with full unit floor plans;
 - demonstration that the affordable units have proportionate car parking spaces in
 - line with policy expectation.
- 15.43 Developers will also need to consider the Council's guidance based on Building for Life 12.

- 15.44 Developers will need to agree with the Council when the affordable housing will be delivered and how this fits into the overall build and sales program.
- 15.45 The Council have produced a “Planning Advice Note for Applicants/Agents Information Required When Submitting an Application” which can be found at this address:

<http://www.maidstone.gov.uk/home/primary-services/planning-and-building/primary-areas/apply-for-planning-permission>
- 15.46 Developers, RPs and the Council will need to agree on the terms of the S106 agreement. This will include whether a local lettings policy is required and also determine how the units will remain “affordable” in perpetuity
- 15.47 Further guidance can be found on the Council’s website - <http://www.maidstone.gov.uk/home/primary-services/planning-and-building/additional-areas/section-106s>

16 CONTACT DETAILS FOR KEY MBC OFFICERS

[return to contents](#)

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