

# ISLAND PLAN



## Affordable Housing Contributions Supplementary Planning Document



*Adopted March 2017*

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## 1. What is Affordable Housing?

### Definition of affordable housing products

- 1.1 The national planning policy framework (NPPF) defines *affordable housing* as the following:

**Affordable housing:** *Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.*

*Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.*

*Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).*

*Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.*

*Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.*

### Terms Explained

- 1.2 **Social Rented Housing** on the Island is usually provided by Registered Providers (Housing Associations) and is subject to strict guidelines on how much rent can be charged by the landlord. These are the lowest rent properties available as *affordable housing* and are usually properties that were constructed before 2012.
- 1.3 **Affordable Rented Housing** on the Island is usually provided by Registered Providers (Housing Associations), and is subject to rent controls that require the rent to be no more than 80% of the local market rent inclusive of service charge.
- 1.4 **Intermediate Housing for sale** can either be in the form of Shared Ownership, Shared Equity or Discounted Sale. The council recognises the role that Registered Providers, the private sector and community groups can play in delivering affordable housing for residents. It therefore does not restrict who can provide Intermediate Housing but ensures that any

*affordable housing* delivered under this arrangement includes provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative *affordable housing* provision.

1.5 ***Intermediate Housing for sale*** includes the following schemes:

- Shared Ownership Housing (Part Buy/Part Rent);
- options for Older People (OPSO);
- people with Long Term Disabilities (HOLD);
- Shared Equity housing (ensuring that if the property is sold the money is reinvested in more *affordable housing*);
- Discounted Sale housing (where re-sales are controlled by a price covenant); and
- Equity loan arrangements (ensuring that if the property is sold the money is reinvested in more *affordable housing*).

1.6 ***Intermediate Housing for sale*** does not include:

- Help to Buy (this is not classed as *affordable housing* by the Homes and Communities Agency (HCA));
- Starter Homes (because the discount only lasts for 5 years);
- Self-Build Homes; and
- any other short term discounted sale arrangement.

1.7 ***Intermediate Housing for rent*** should be provided at below market levels and should be subject to rent controls that require the rent to be no more than 80% of the local market rent inclusive of service charge. This allows the private sector and community groups to provide rented housing that meets the definition of *affordable housing* subject to the discount continuing in perpetuity.

## 2. Why a Supplementary Planning Document is required

### National Planning Policy Framework

2.1 The NPPF<sup>1</sup> defines a household as having an “*affordable housing need*” if it is unable to access a suitable home on the open market. Eligibility is determined with regard to local incomes and local house prices.

2.2 The NPPF also requires planning and housing authorities to have a clear understanding of the housing needs and demands (requirements) of their area. Evidence of housing requirements can be derived from a range of data, but the Isle of Wight Council is required to prepare a Strategic Housing Market Assessment (SHMA) to assess a full range of housing requirements over the plan period to 2027. In addition, annexe 2 of the NPPF sets out a range of tenures which can be considered as affordable housing as identified earlier within this document.

### National Planning Practice Guidance

2.3 The planning practice guidance (PPG) relating to the Ministerial Statement of 28 November

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<sup>1</sup> Annex 2: Glossary of National Planning Policy Framework

2014 states that “there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development:

- contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000m<sup>2</sup>.
- in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments.

2.4 In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty.

2.5 On 11<sup>th</sup> May 2016 the Court of Appeal ruling in the case of the Secretary of State for Communities and Local Government versus West Berkshire District Council and Reading Borough Council<sup>2</sup> confirmed that if the LPA had up to date evidence of housing need then they could take the risk on requiring financial contributions on sites below that set in the NPPG.

2.6 The legal tests for when you can use a planning obligation are set out within the PPG and other legislation including the Community Infrastructure Levy Regulations 2010 as amended. Any obligation secured by a s106 agreement should be:

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

2.7 Therefore, *affordable housing* contributions should be directly related to the development. The council considers that by using the methods set out in this document it can demonstrate that contributions are fairly and reasonably related in scale and kind to the development for which planning permission is sought.

#### **The Island context – The Island Plan and evidence base**

2.8 The council’s most recent SHMA was completed in August 2014<sup>3</sup> and identified the following housing challenges for the Island:

- balancing the fact that 58% of the overall housing requirement per annum are households who require some form of *affordable housing* when the council is only planning for 35%;

<sup>2</sup>[http://www.landmarkchambers.co.uk/userfiles/documents/R%20\(West%20Berkshire\)%20v%20%20SSCLG%20-%20transcript.pdf](http://www.landmarkchambers.co.uk/userfiles/documents/R%20(West%20Berkshire)%20v%20%20SSCLG%20-%20transcript.pdf)

<sup>3</sup><http://www.iwight.com/azservices/documents/2782-Isle-of-Wight-SHMA-Final-Report-120614-v1.pdf>

- household projections show that the Island is expected to see a substantial increase in the older person population with the total number of people aged 55 and over expected to increase by 40% over just 25 years. In particular, there is projected to be a large rise in the number of people with dementia (up 123%) along with an 88% increase in the number of people with mobility problems;
  - analysis of younger person households shows a high reliance on rented housing. Younger age cohorts may therefore be forced into private rented (including shared) housing as the only means of meeting their housing needs, aside from residing with parents, where they would not form a head of household.
- 2.9 The affordability of market housing for sale is an important signal of market pressures. Lower Quartile affordability ratios, produced by Department of Communities and Local Government (DCLG) describe the ratio between lower quartile house prices and lower quartile earnings, to provide an indication of the cost of entry level housing relative to the typical earnings of younger households.
- 2.10 Housing affordability on the Isle of Wight has improved since the peak of the economic recession, when the Island's house price to income ratio was 9.38 to 1. However, affordability issues continue to be more acute on the Isle of Wight, where the ratio of median house price to lower quartile earnings of 8.14 to 1<sup>4</sup> in 2015 was significantly higher than the average national level (6.59 to 1). This broadly indicates that issues with affordability are particularly focussed on the lower end of the market.
- 2.11 The council relies on the SHMA to provide evidence of housing requirements to support the development of local plan policies. However, it recognises that for site specific proposals, there is scope to give weight to a wider range of local data sources both to justify the level of housing required, the number of houses that may be required and to inform the tenure and dwelling mixes. Examples of relevant data sources include:
- analysis of the *Island HomeFinder*<sup>5</sup> register;
  - analysis of customers registered on the *Help to Buy South*<sup>6</sup> register;
  - analysis of commitments and recent delivery rates in the parish or locality;
  - neighbourhood plans<sup>7</sup>;
  - parish level housing needs surveys<sup>8</sup>; and
  - market demand surveys.
- 2.12 Taking all of this into consideration, Policy DM4 of the adopted Island Plan Core Strategy<sup>9</sup> establishes that the council will seek to deliver *affordable housing* over the plan period with all C3 *Use Class* development proposals and conversions from an alternate Use Class to C3 that result in a net increase in dwellings being required to:
- provide 35% of the development as on-site *affordable housing*, based on developments of 15+ units in Key Regeneration Areas and 10+ elsewhere;

<sup>4</sup> Table 577 Ratio of median house price to lower quartile earnings by Local Authority, 2013 to 2015

<sup>5</sup> <https://www.islandhomefinder.org.uk/Data/ASPPages/1/30.aspx>

<sup>6</sup> [www.helptobuysouth.co.uk/](http://www.helptobuysouth.co.uk/)

<sup>7</sup> [www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Neighbourhood-Planning/General](http://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Neighbourhood-Planning/General)

<sup>8</sup> [www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Community-Planning/Housing-Needs-Surveys](http://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Community-Planning/Housing-Needs-Surveys)

<sup>9</sup> Isle of Wight Core Strategy adopted March 2012



- provide financial contributions towards *affordable housing* for developments of 1-14 units in Key Regeneration Areas and 1-9 units in Smaller Regeneration Areas and rural areas; and
- deliver a target mix of 70% *affordable housing* to be affordable/social rented and 30% for intermediate tenures.

2.13 The Council considers that it has justified its approach to affordable housing requirements through the adoption of Core Strategy policy DM4 and that it has up to date housing needs information (as set out in chapter 2) that provides a strong policy base for requiring contributions from smaller sites.

### The Island context – Affordable Housing delivery

#### Figures

Year	Affordable Housing Comps	Total Comps	% of Comps Affordable Housing	Affordable Housing Need (SHMA)	Comps / Need Diff
15/16	35	417	8.4%	284	-249
14/15	150	396	37.8%	284	-134
13/14	112	410	28.3%	180	-68
12/13	141	409	34.5%	180	-39
11/12	196	418	46.9%	180	+16

Table 1: Affordable Housing Completions

- 2.14 The council believes that the lack of delivery of affordable housing has become a significant issue for the island. As table 1 above shows, there has been a significant decrease in the number of affordable housing completions over the previous five years.
- 2.15 It is considered that this can be attributed to a number of factors, broadly summarised as being all affordable units on Pan Meadows having been completed; changes in national planning and housing policy; and a lack of larger sites delivering affordable housing being completed in 2015/16.

#### Affordable Housing SPD – previous version and review of financial contributions

- 2.16 The council adopted the Affordable Housing Contributions SPD in September 2015. The intention of this SPD was to provide further guidance on matters pertaining to affordable housing within developments and to formally secure the Council’s ability to require financial contributions as set out in policy DM4. However, following its introduction, the Government published updated guidance stating that smaller developments should not be subject to tariff-style contributions. In addition, the LPA received considerable feedback that the figures utilised within the Affordable Housing calculator was not fit for purpose, and was negatively impacting upon the viability of developments. In consequence, the LPA agreed to work with partners to review the SPD and the calculator contained within.
- 2.17 During 2016, discussions took place between the LPA and a working party established by the Chamber of Commerce Agents Forum to identify the problems associated with the existing SPD, identify whether there was an evidenced need for an SPD, and to evaluate potential

alternative mechanisms for securing contributions towards affordable housing. It was established that whilst appropriate for on-site provision where the DM4 thresholds were exceeded, for smaller-sites below the thresholds (1-14 in KRAs, 1-9 elsewhere) the existing SPD had introduced a mechanism for financial contributions that was ambiguous, lacked clarity for developers and that was set at a level (for smaller sites) which would lead to a reduction in the steady supply of housing land. There was also a general acceptance that there was a clear need for affordable housing on the Island and that delivery rates over recent years had slowed, and that it was important that the development sector as a whole must play its part in delivery of affordable housing.

2.18 It was within this context that the brief for a review of the adopted SPD was undertaken, with particular regard to the need to provide a clearer, consistent and easy to manage solution which would allow affordable housing contributions to be secured, based upon the Island context, and which would not prejudice the continued delivery of housing over the remainder of the current plan period.

2.19 Following a review of established mechanisms, there was general agreement that a tariff based solution as considered to represent the most suitable option. In light of this, a series of principles were established these were:

- It must be simple and clear to understand.
- It must not restrict or prevent land being brought forward for development.
- It must be stable enough to provide certainty for the long term, but with flexibility to period review.
- It must provide an appropriate level of contribution to offer meaningful benefits to the delivery of affordable housing but not add burden to development delivery or finance limitations
- It must be easy to administer and control by the local authority.
- It must take into account the wide range in property values across the Isle of Wight and within individual settlements.
- It must be flexible to allow contributions to cascade or pool to provide benefits outside the area it was contributed.
- It must not be imposed in a series of exceptions, including where low value housing (that by its very nature is more affordable to Island residents) or that where the tenure/occupation is restricted, is proposed.

### **Proposed revised approach towards calculating contributions**

2.20 Based on the above principles it is proposed that a formula, linked to the value of the property at first sale/occupation is used, where the development would lead to a net increase in dwellings and where onsite provision is not required by local planning policy. This formula would then apply to all developments which deliver a net increase in dwellings below the on-site thresholds established within policy DM4 and where the development is not subject to the exceptions criteria.

2.21 This formula would be as follows:

$$\begin{array}{rclcl} \text{Property Value} & - & \text{Threshold} & = & \text{Remaining value} \\ \text{(a)} & - & \text{(b)} & = & \text{(c)} \end{array}$$

$$\begin{array}{rclcl} \text{Remaining value} & \times & \text{Tariff} & = & \text{Affordable Housing Contribution Sum} \\ \text{(c)} & \times & \% & = & \text{(d)} \end{array}$$

2.22 The proposed mechanism for collection of affordable housing contributions was presented by the working party to the Chamber of Commerce Agents Forum on 3 November 2016. It was largely accepted by all that there was a need to ensure a clearer, consistent, and deliverable approach which would allow partners within the development sector to do their part in increasing the ability of the Island to meet its rising need for affordable housing, whilst ensuring that any solution did not prejudice the delivery of smaller-sites which also contribute positively to the economy on the Island and which already faces numerous challenges. At this meeting, a general endorsement was received from various attendees from across the development sector on the Island towards the mechanism that the working party for the Forum presented (as set out above).

2.23 The Chamber of Commerce Agents Forum proposed mechanism was submitted to the LPA on 12<sup>th</sup> December, along with a series of documents to identify the reasoning behind the mechanism. The working party proposed a threshold of £125,000 and a tariff of 2%.

2.24 The LPA has reviewed the information presented and have undertaken its own assessment of the approach. In general, there was agreement that the mechanism proposed would be one which would be acceptable to the LPA in that it would allow for financial contributions to be sought where appropriate, whilst being related to the development proposed, reasonable in nature and effect, and required to make proposals acceptable in planning terms. It would also allow contributions to be collected by the LPA from smaller sites, which collectively could be utilised in a variety of ways to increase the supply of affordable housing on the Island.

2.25 Central to the formula are the **threshold value** and the **tariff percentage**. In defining these figures, the LPA has considered various sources of information including:

1. Supporting evidence provided by the working party to support their suggested approach.
2. Full Council decision 19<sup>th</sup> October 2016
3. Historic delivery rates for affordable housing on the island
4. The growing evidenced need for affordable housing on the island (SHMA)
5. Housing affordability issues
6. Isle of Wight Council Executive report 8<sup>th</sup> September 2016
7. Options testing undertaken by IWC officers
8. Consideration of other SPDs and approaches undertaken by other LPAs

2.26 At its Executive meeting on 9 March 2017, the council decided that the **threshold value** should be set at £100,000 and the **tariff percentage** at 3%. It is proposed that these figures will be reviewed on a regular basis of not less than 2 years from date of adoption or latest update.

- 2.27 This document seeks to revise the methodology for calculating the financial contribution towards affordable housing. If adopted it will replace the current SPD, and would represent the Local Planning Authorities updated position with regard to the application of policy DM4 and in particular the securing of affordable housing contributions.

### 3. Affordable Housing Requirements

#### Requirements in Key Regeneration Areas

- 3.1 In KRAs all developments that result in a net increase of 15 units or more will be expected to provide 35% of the development as on-site *affordable housing*.
- 3.2 The council recognises that the SHMA 2014 confirms that the need for *affordable housing* is 58% of the overall housing required. However guidance in the NPPF establishes that, “*the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*”<sup>10</sup>
- 3.3 As part of the examination of the core strategy the council had to supply evidence that the scale of obligations, including *affordable housing*, would not make development unviable over the plan period.<sup>11</sup> The Inspector accepted that the appropriate balance, between the need to provide *affordable housing* and not make developments unviable was at 35% and this policy was adopted as part of the Core Strategy.
- 3.4 The council seeks to achieve a mix of tenure on residential sites in the interests of creating cohesive communities. As a starting point for negotiations the council will seek to negotiate a 70:30 split of tenure for the *affordable housing* element, with 70% of the affordable units for *affordable/social rented* accommodation and 30% as various forms of *intermediate affordable housing*.
- 3.5 The council will consider other arrangements, but expects the applicant to demonstrate why the policy requirements (including Neighbourhood Plans) cannot be met in full before discussing these. Other approaches should reflect any community identified housing needs in the first instance for example If the development is required to provide on-site Affordable Housing to meet a local need then this policy will not prevent such from happening.
- 3.6 Policy DM4 sets out that in KRAs developers will be expected to provide financial contributions for developments of 1-14 units – see [Requirements for all sites where financial contributions will be sought](#).
- 3.7 The starting point for establishing the dwelling sizes of the *affordable housing* required in each development will be Table 52 of the SHMA 2014. An alternative mix, based on any housing needs identified by a local survey or from data supplied from the *Island HomeFinder* register, may be agreed subject to a discussion with the LPA.

<sup>10</sup> NPPF paragraphs 173 and 174

<sup>11</sup> <http://www.iwight.com/azservices/documents/2782-EB3-Indicative-Economic-Viability-Assessment.pdf>

## Requirements in Smaller Regeneration Areas, Rural Service Centres and the Wider Rural Area

- 3.8 In SRAs all developments that result in a net increase of ten units or more will be expected to provide 35% of the development as on-site *affordable housing*.
- 3.9 The council seeks to achieve a mix of tenure on residential sites in the interests of creating cohesive communities. As a starting point for negotiations the council will seek to negotiate a 70:30 split of tenure for the *affordable housing* element, with 70% of the affordable units for *affordable/social rented* accommodation and 30% as various forms of *intermediate affordable housing*.
- 3.10 The council will consider other arrangements, but expects the applicant to demonstrate why the policy requirements (including Neighbourhood Plans) cannot be met in full before discussing these. Other approaches should reflect any community identified housing needs in the first instance for example If the development is required to provide on-site Affordable Housing to meet a local need then this policy will not prevent such from happening.
- 3.11 Policy DM4 establishes that in SRAs and rural areas developers would be expected to provide financial contributions for developments of one to nine units – see [Requirements for all sites where financial contributions will be sought](#).
- 3.12 The starting point for establishing the dwelling sizes of the *affordable housing* required in each development will be Table 52 of the SHMA 2014. An alternative mix, based on any housing needs identified by a local survey or from data supplied from the *Island HomeFinder* register, may be agreed subject to a discussion with the LPA.

## Requirements for sites where financial contributions will be sought

- 3.13 The LPA will use the following formula to calculate financial contributions:

Property Value	-	Threshold	=	Remaining value
(a)	-	<b>(b) £100,000</b>	=	(c)
Remaining value	x	Tariff	=	Affordable Housing Contribution Sum
(c)	x	<b>3%</b>	=	(d)

- 3.14 For identification purposes a table is included within this document (Appendix 1) which can be used as a quick reference guide. However, please note that the above formula is the one which would be applied.
- 3.15 Exceptions where the requirement for financial contributions would not apply are as follows:
- 1) Where the Property Value at first sale or occupation does not exceed £100,000
  - 2) Where the development would not result in a net increase of new dwellings
  - 3) Where the development would result in a dwelling/dwellings restricted by condition or other obligation restricting occupation – this includes holiday use, agricultural ties, age restrictions etc.

- 4) Where the development would result in a dwelling/dwellings provided as Affordable Housing in accordance with the definitions identified within section 1 of this document, and where such provision is secured by planning obligation.
- 3.16 For clarity, the formula set out in paragraph 3.13 shall be applied to all developments where there is a net increase of new dwellings of 1-14 units in Key Regeneration Areas and 1-9 units in Rural Areas as a result of planning permission being granted. Any required contributions will only apply to the net increase of units, where an existing dwelling is to be demolished to facilitate the delivery of multiple units (i.e. 1 replaced by 2).
  - 3.17 A planning obligation or agreement will be required in order to secure the Affordable Housing Contribution Sum, this will either be through a Unilateral Undertaking or Planning Obligation under Section 106 of the Planning Act. This obligation/agreement must be completed before a decision may be made. More details on this can be found in the [Content of a Planning Obligation section](#). If a developer/applicant fails to comply with the terms of the agreement/obligation, they may be subject to formal planning enforcement action.
  - 3.18 The threshold value and tariff as defined within this document will be reviewed on a regular basis of not less than 2 years from date of adoption or latest update, in order to allow a balance between clarity for the development sector and the ability to ensure that the contribution remains current and reflective of changing variables such as market-conditions and delivery of affordable housing on the Island.

#### **Information required to be submitted**

- 3.19 When submitting applications, in addition to the national requirements and local information requirements, either a draft agreement/obligation or confirmation of acceptance to enter into a required deed, along with a cheque for the relevant legal fees to cover the council's costs, should be provided.
- 3.20 From validation of the application, the case officer and council's Legal section will work with applicants / agents in order to produce / confirm a required deed to secure the affordable housing contribution sum, and any other planning obligation required (such as SPA mitigation). The method or type of deed required may vary depending on the scale of the development, and complexities such as land-ownership, mortgagees etc. If permission is subsequently refused, the deed may be used for an appeal or revised submission.

#### **Post decision requirements**

- 3.21 Following the granting of planning permission, the deed will take effect from implementation of the permission, and the developer/applicant should be aware of its content up to the point of first sale or occupation. At this point the requirements pertaining to the affordable housing contribution sum (the formula) would apply. The binding requirement for the payment will be shown on legal searches undertaken at this point.
- 3.22 The affordable housing contribution would be payable on sale or occupation (whichever is the sooner) based upon the following:
  - a. Upon first sale the landowner solicitor must (at the landowners expense) confirm this was 'an arm's length' transaction as described by the RICS Red book, or if it is not an arm's length transaction the "Property Value" must be determined by an RICS

Surveyor in accordance with 'RICS Red Book method'. The affordable housing contribution must be provided with a copy of the valuation and solicitors letter confirming it to be the correct sum, prior to completion of the first sale.

- b. Where the property is not to be sold, prior to occupation the "Property Value" must be determined by an RICS Surveyor in accordance with 'RICS Red Book method'. The landowner's solicitor must (at the landowners expense) confirm that the property is not to be sold, has not been occupied and that the value has been determined by a RICS Surveyor in accordance with 'RICS Red Book method'. The affordable housing contribution must be provided with a copy of the valuation and solicitors letter confirming it to be the correct sum, prior to first occupation.
  - c. In respect of both a) and b) above, where the solicitor's letter, and valuations confirm that the property value does not exceed the threshold value (£100k) the tariff shall not apply.
- 3.23 Upon payment of the correct amount to the council's Legal section, confirmation of the discharge of the obligation will be provided.
- 3.24 If a developer/applicant fails to comply with the terms of the agreement/obligation, they may be subject to formal planning enforcement action.

## Housing Allocations

- 3.25 The council expects to make allocations to deliver the required housing over the plan period. In order to achieve 35% of the overall requirement as *affordable housing* there may be a need to allocate some sites with an increased requirement to balance those sites that are not contributing to the overall requirement. Where this is proposed, and as set out in the supporting text to each Area Action Plan policy<sup>12</sup>, a further viability assessment will be carried out to establish whether provision higher than 35% is viable and appropriate.

## Viability

- 3.26 If the developer, taking into consideration all development costs and other planning obligations, is unable to provide the required 35% *affordable housing* provision on site, the council will require an open-book assessment<sup>13</sup> of the development viability to demonstrate what level of *affordable housing* is viable for the site. The intention will be to seek to maximise on-site provision through the provision of a different mix as appropriate.
- 3.27 The LPA preferred method of assessing development viability will be by using the Homes and Communities Agency (HCA) Development Appraisal Tool (DAT). The DAT is designed to appraise in detail the viability of an individual site and is freely available for use on the Homes and Communities Agency website<sup>14</sup>. The LPA will use the DAT to scrutinise alternative appraisal methodologies, such as profit share models, and may require the submission of additional evidence in order to complete this process.

<sup>12</sup> AAP1, AAP2 and AAP3 policies of the adopted Core Strategy

<sup>13</sup> Open-book means openness between developer and LPA as well as the public when it would not prejudice commercial interests

<sup>14</sup> <https://www.gov.uk/government/organisations/homes-and-communities-agency>

- 3.28 The DAT should be prepared and used collaboratively between the council and developers to help establish the viability of development thereby justifying the level of provision of the requirements of the Core Strategy and developer contributions obligations at an early stage in the planning process.
- 3.29 Only when on-site provision is required and has been shown not to be viable, through a mixture of site constraints and open-book appraisal, will a financial contribution towards securing *affordable housing* elsewhere in the local area be considered. The council wishes to make it clear that this option is the last resort.
- 3.30 Where the LPA is required to secure the services of an external consultant to advise the LPA on matters relating to viability, it is expected that such costs will be borne by the applicant, and agreement regarding such fees will be secured in advance of work being commissioned and any analysis being undertaken. In addition, further reasonable charges relating to administration and monitoring pertaining to the delivery of the development and the facilitation of *affordable housing* secured through this method may be required – such fees will be negotiated through the consideration of the application.
- 3.31 In the event of an exceptional circumstance where on-site delivery of *affordable housing* cannot be agreed and after an open-book assessment the council is not able to secure the required 35% as a financial contribution it will seek to negotiate an agreement that where values improve over and above the agreed viability assessment the council will share in the benefit up to a value of the original requirement.

## Values

- 3.32 A key aspect of the viability will be the amount that an *affordable housing* provider can pay for the *affordable housing* units. Every effort must be made by the developer early in the negotiation to obtain information from an *affordable housing* provider on the amount that they are able to pay for the units and this must be discussed with the council.
- 3.33 Any viability assessment should be undertaken on the basis of no public subsidy being available.

## The Content of a Planning Obligation

- 3.34 The council will expect applicants to enter discussions on the planning obligation as early as possible in the planning process, including at the pre-application stage in accordance with the NPPG.
- 3.35 It is also expected by the council that to secure affordable housing, whether on-site or by financial contribution, a planning obligation will be required either as a section 106 legal agreement or a unilateral undertaking. Where a decision is subject to a planning obligation, the decision will not be issued until the required obligation has been completed, and this may be beyond the statutory expiry date. In such circumstances an Extension of Time will be requested, and the LPA may be unable to issue the decision if an agreement to extend the time is not received.
- 3.36 In broad terms, any section 106 legal agreement required to secure *affordable housing* may deal with the following matters:



- confirmation that the occupation of dwelling(s) would be to an eligible person only
- the location and tenure of the *affordable housing*;
- a timetable and programme for its provision;
- the transfer of the *affordable housing* to an appropriate provider;
- confirmation of the legal framework that ensures that the *affordable housing* remains in perpetuity; and
- that if the *affordable housing* is disposed<sup>15</sup> of that any subsidy should be recycled into direct provision of additional *affordable housing*.

3.37 Where a financial contribution is proposed, it may cover:

- confirmation of the level of contribution or formula for contribution calculation;
- timetable for the provision of the contribution; and
- confirmation that the contribution can be used for the provision, or improvement or alteration of affordable housing to be utilized within the Isle of Wight on a cascading basis related to the location of the development.

#### **Legal involvement and fees**

3.38 As identified above, in order to secure affordable housing requirements, a planning obligation is required. Such agreements are legally binding, and can be drawn up by, or simply checked by the council's Legal section. The LPA expects that any fees incurred as a result of the council's Legal section drafting or checking the agreement will be met by the applicant and an undertaking for costs will be secured in advance of any work being undertaken. These costs can vary depending on the complexity of the agreement / obligation which can be affected by a variety of factors including land-ownership.

3.39 The LPA is committed to working pro-actively, positively and efficiently in order to ensure that the completion of agreements/obligations does not adversely impact upon both decision-taking and development delivery. As such, it has introduced a series of templates which can be tailored to fit most circumstances, details of these can be found at: <https://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning/Planning-Development/Submitting-a-planning-application>. However, it is often more efficient for the council to draft the agreement and procedures are in place to allow this to occur.

3.40 As identified within the previous section, applicants are advised to discuss affordable housing requirements at the pre-application stage or as early as possible, so that appropriate timescales can be built into the development delivery programme and to ensure that expectations are realistic. The negotiation/completion of a planning obligation also requires the commitment to completion on the side of the applicant and as such applicants/developers are encouraged to resolve matters such as land-ownership, site acquisitions, and deed circulation as efficiently as possible, in order to avoid undue delays in decision taking.

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<sup>15</sup> The council considers disposal in this instance to mean the relinquishing of the freehold by the owner.

## Annex 1 – Quick reference guide for Affordable Housing Contribution Sum

PROPERTY VALUE	THRESHOLD	REMAINING VALUE	TARIFF	AFFORDABLE HOUSING CONTRIBUTION
£100,000.00	£100,000.00	N/A	3.00%	N/A
£125,000.00	£100,000.00	£25,000.00	3.00%	£750.00
£150,000.00	£100,000.00	£50,000.00	3.00%	£1,000.00
£175,000.00	£100,000.00	£75,000.00	3.00%	£2,250.00
£200,000.00	£100,000.00	£100,000.00	3.00%	£3,000.00
£225,000.00	£100,000.00	£125,000.00	3.00%	£3,750.00
£250,000.00	£100,000.00	£150,000.00	3.00%	£4,500.00
£275,000.00	£100,000.00	£175,000.00	3.00%	£5,250.00
£300,000.00	£100,000.00	£200,000.00	3.00%	£6,000.00
£325,000.00	£100,000.00	£225,000.00	3.00%	£6,750.00
£350,000.00	£100,000.00	£250,000.00	3.00%	£7,500.00
£375,000.00	£100,000.00	£275,000.00	3.00%	£8,250.00
£400,000.00	£100,000.00	£300,000.00	3.00%	£9,000.00
£425,000.00	£100,000.00	£325,000.00	3.00%	£9,750.00
£450,000.00	£100,000.00	£350,000.00	3.00%	£10,500.00
£475,000.00	£100,000.00	£375,000.00	3.00%	£11,250.00
£500,000.00	£100,000.00	£400,000.00	3.00%	£12,000.00
£525,000.00	£100,000.00	£425,000.00	3.00%	£12,750.00
£550,000.00	£100,000.00	£450,000.00	3.00%	£13,500.00
£575,000.00	£100,000.00	£475,000.00	3.00%	£14,250.00
£600,000.00	£100,000.00	£500,000.00	3.00%	£15,000.00
£625,000.00	£100,000.00	£525,000.00	3.00%	£15,750.00
£650,000.00	£100,000.00	£550,000.00	3.00%	£16,500.00
£675,000.00	£100,000.00	£575,000.00	3.00%	£17,250.00
£700,000.00	£100,000.00	£600,000.00	3.00%	£18,000.00
£725,000.00	£100,000.00	£625,000.00	3.00%	£18,750.00
£750,000.00	£100,000.00	£650,000.00	3.00%	£19,500.00
£775,000.00	£100,000.00	£675,000.00	3.00%	£20,250.00
£800,000.00	£100,000.00	£700,000.00	3.00%	£21,000.00
£825,000.00	£100,000.00	£725,000.00	3.00%	£21,750.00
£850,000.00	£100,000.00	£750,000.00	3.00%	£22,500.00
£875,000.00	£100,000.00	£775,000.00	3.00%	£23,250.00
£900,000.00	£100,000.00	£800,000.00	3.00%	£24,000.00
£925,000.00	£100,000.00	£825,000.00	3.00%	£24,750.00
£950,000.00	£100,000.00	£850,000.00	3.00%	£25,500.00
£975,000.00	£100,000.00	£875,000.00	3.00%	£26,250.00
£1,000,000.00	£100,000.00	£900,000.00	3.00%	£27,000.00