



Castle Point Borough Council

**Developers Contributions Guidance
Supplementary Planning Document (SPD)**

Affordable Housing

March 2023

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1. Introduction

1.1. Purpose of this Document

- 1.1.1. This document specifically sets out the types of developer contributions or planning obligations required for affordable housing. It will also highlight the process for how affordable housing will be sought and delivered.
- 1.1.2. This document should be read alongside the [Developers Contributions Guide Cover Document](#), which sets out in greater detail the process the Council expects planning obligations to be sought and implemented.

2. Policy context

2.1. What is Affordable Housing

2.1.1. The government defines affordable housing in the Glossary (Annex 2) of the National Planning Policy Framework (NPPF) as:

‘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:

- **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).*
- **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.*
- **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.*
- **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. ‘*

2.1.2. The affordable housing market evolves over time depending on the private sales market, rented market and the availability of funding. The government often introduce new schemes to assist people into homes and to purchase a property. New schemes such as ‘First Homes’, was introduced by the government in 2021 to provide a new type of affordable housing. The Planning Practice Guidance defines First Homes as discounted market sale units which:

a) must be discounted by a minimum of 30% against the market value;

b) are sold to a person or persons meeting the First Homes eligibility criteria;

c) on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,

d) after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).'

(Paragraph: 001 Reference ID: 70-001-20210524)

- 2.1.3. First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations.
- 2.1.4. The Council will accept First Homes as a form of affordable home ownership product in the Council's affordable housing mix in line with government policy.

3. National Planning Policy Framework (NPPF) 2021

- 3.1.1. The NPPF sets out the government's planning policies for England and how these are expected to be applied. The NPPF seeks to significantly boost the supply of homes and ensure that the number of affordable homes required are assessed within the overall housing needs.
- 3.1.2. The NPPF expects affordable housing to be provided on site unless *'off-site provision or an appropriate financial contribution in-lieu can be robustly justified'* and *'the agreed approach contributes to the objective of creating mixed and balanced communities.'* (NPPF 2021, paragraph 63)
- 3.1.3. It is clear that affordable housing should be sought wherever possible. This includes sites of 10 units or more dwellings. However, to encourage the use of brownfield land the NPPF also indicates that where vacant buildings are used affordable housing provision can be reduced by a proportionate amount, this is explained in greater detail in section 5.10 'Vacant Building Credit'.
- 3.1.4. The government sets out that a minimum of 10% of the total number of homes to be affordable unless this exceeds overall requirement for the borough (NPPF 2021, paragraph 65). This means that developments should provide affordable home ownership products such as 'Help to Buy', 'Shared Ownership' and 'First Homes', as well as properties for affordable rent, with a preference for on-site provision. There are exemptions however: development that provides solely for Build to rent homes; provides specialist accommodation; provide for self-build; or is solely for affordable housing (so additional provision is required) or an exception site.
- 3.1.5. In order to provide a sufficient supply of the right type of homes local planning authorities should provide a variety of size, type and tenures in order to meet local needs. Such needs have been identified within the borough through Strategic Housing Market Assessments, as well as the specific needs of those on the Council's housing register. This requirement includes the right mix for affordable homes.

4. Affordable Housing Needs and Priorities

4.1. Strategic Housing Market Assessments (SHMA)

- 4.1.1. A South Essex Strategic Housing Market Assessment (SHMA) was completed in 2016 and a further SHMA Addendum was completed in 2017. A borough wide SHMA Addendum focusing on housing mix was also completed in 2020. This evidence largely defines market-led housing needs, although does provide some detail on affordable housing needs. The Council holds specific information on the Council's housing register.
- 4.1.2. The 2017 SHMA Addendum updated the housing need figure projections using the 2014 updated population figures. Similarly, to the 2016 SHMA the Addendum predicted outcomes from market signals, household formation rates, natural change, migration and employment assumptions to form an objectively assessed housing need (OAN). This concluded that an OAN of 311 dwellings per annum was required in Castle Point from 2014-2037.
- 4.1.3. To reflect the increased number of newly forming households anticipated under the updated demographic projection in 2017, the net annual affordable housing need of 353 dwellings per annum was assumed in Castle Point over the 2014-2037 period.
- 4.1.4. The SHMA report clearly identifies an affordable housing need within Castle Point that is greater than the OAN assumed in 2017. In 2018 the government implemented a standard methodology for calculating housing needs. This formula indicates a higher OAN than what was previously assessed in 2017, to 355 new homes per within the borough per annum. This further increase and under delivery of housing in Castle Point highlights the sustained under delivery of affordable homes within the borough.
- 4.1.5. Affordability issues and backlog can be associated with a range of household needs, this includes those in urgent need or housing (without a current home) or those in overcrowded or substandard homes (who are currently housed).
- 4.1.6. In identifying the different type of affordable housing needs it creates a picture of the size, type and tenure of affordable homes that are required in the borough. For example those on the Council housing register may require family housing in the order of three-bedroom homes, whereas a proportion of the local need may require affordable home ownership products to enable first time buyers into the housing market.
- 4.1.7. The SHMA 2016 indicates that there will be significant demand from young people who cannot access the housing market due to issues with the availability of first-time homes and wider issues in the housing market associated with mortgage availability. Diversification of the housing stock to include a greater number of smaller properties and the government's mechanisms to support first time buyers will assist these people in accessing the general housing market.
- 4.1.8. The Castle Point SHMA Addendum 2020 reviewed the need for different house sizes and types to meet the changing needs of the borough's population. This Addendum concluded that there will be demand from a range of different household types, although demand will

be particularly strong from families with children and people of retirement age. This means that there is a strong demand for 3-bedroom properties reflecting the needs of growing families in the general population. It is important that these homes are provided as they will help to attract more professional and working aged people to live in the area. This is particularly important for both business growth and in sustaining public services, such as healthcare.

- 4.1.9. The SHMA 2020, in identifying a housing pressure arising from the growing population of older people, highlights the desirability of bungalows in Castle Point. Bungalows make up 29% of the housing stock currently and it is expected that there will be demand for additional bungalows, reflecting the characteristics of the local housing stock. It also identifies the need for specialist accommodation for older people, suggesting a need for around 45 units per annum of sheltered housing types. In addition to this, around 20 additional bedspaces are required each year in residential care/nursing accommodation.

4.2. Viability Assessment

- 4.2.1. A 2021 Viability Assessment and preceding work took into account a number of factors affecting development viability including infrastructure required to make development acceptable (as set out in the Council's latest Infrastructure Delivery Plan), development costs and tested thresholds for affordable housing ratios.
- 4.2.2. In 2022 there were 544 households on the Council's housing register. In addition, the SHMA 2016 highlighted that there were 449 concealed households and 1,005 overcrowded households in 2011. Although these fields may overlap and does not represent a true need for affordable housing, it does highlight that there is a potential increase of need for those looking to leave overcrowded or concealed households that do not have access to suitable affordable housing. Therefore, the Viability Assessment tested various affordable housing provisions on different site typologies. The aim of this was to identify the highest level of affordable housing provision that could be achieved, without rendering development unviable.
- 4.2.3. As a consequence of the viability testing different affordable housing thresholds became apparent for different types of development and locations within the borough. In the case of Canvey Island higher development costs combined with lower property values mean that for some forms of development there are challenges in relation to the commercial viability of development.

4.3. Why is this document important?

- 4.3.1. The borough has one of the largest gaps in Essex between incomes from those that work within the borough and those that do not. This means that it is more likely that homes on the open market will be affordable to those who work outside the borough, than to those who live and work in the borough. Demand for affordable housing in the borough therefore outstrips existing and planned supply, particularly for local people who live and work in the area.
- 4.3.2. As of 2022, there were 544 individuals or families on the Council’s housing register, of those 544, 233 fall within categories A and B which are considered priority bands Within that need there is the greatest demand for 1 and 2-bedroom properties.
- 4.3.3. As demonstrated in table 4.1 since 2011/12, only 169 affordable homes have been developed in the borough. The SHMA Addendum 2017 indicates that there is a need for up to 353 homes per annum to be affordable. This highlights the high need for affordable housing within the borough and therefore it is imperative that development maximises the number of affordable homes that can be delivered.

Table 4.1: Number and type of affordable homes delivered in Castle Point (gross)

Year	Social Rent	Intermediate	Affordable Rent	Total
2011/12	17	0	0	17
2012/13	22	0	0	22
2013/14	0	0	0	0
2014/15	25	15	15	55
2015/16	0	0	19	19
2016/17	0	4	12	16
2017/18	0	18	7	25
2018/19	2	0	0	2
2019/20	0	0	0	0
2020/21	7	0	6	13
Total	73	37	59	169

- 4.3.4. In accordance with national policy, the Council completed a Viability Assessment in 2020. This highlighted that although the levels of affordable housing identified in the SHMA cannot be viably achieved, a level of affordable housing can be reasonably delivered on development sites to significantly boost the supply within the borough. This SPD sets out those requirements.

5. Affordable Housing Requirements

5.1. Which developments may require affordable housing?

- 5.1.1. Affordable housing will be sought from all proposals for residential development, and mixed-use proposals that include an element of housing, resulting in 10 or more net additional homes.

5.2. Exemptions

- 5.2.1. Affordable housing will not be sought for the following:
- Householder applications (e.g. house extension or a garage) and self-build development as defined by the CIL Regulation 2014;
 - Residential Annexes, staff accommodation or extension to an existing home which is incidental to the main dwelling;
 - Listed building, conservation area, advertising or tree preservation order applications (although contributions may be sought from the overarching scheme);
 - Replacement dwellings;
 - Residential institutions providing specialist housing for the elderly (excluding self-contained units – like Sheltered or Extra Care schemes).
 - Purpose built hostel or holiday accommodation which are incapable of occupation for general residential purposes because of their layout, ownership, management or occupancy restrictions; and
 - Gypsy and Traveller accommodation.

5.3. Affordable Housing Requirement

- 5.3.1. In the Adopted Local Plan, policy H7 states the following:

'POLICY H7 – AFFORDABLE HOUSING

Where appropriate the Council will seek to negotiate a proportion of affordable housing for rent, shared ownership, or outright sale, where appropriate to the scale of development schemes. The number of affordable dwellings to be provided will be dependant upon the size of the site, its location, and any substantial costs associated with the provision of other necessary infrastructure, and will be determined by the Council, following negotiation with the applicant.'

- 5.3.2. As demonstrated within this SPD there is an identified need for affordable housing within the borough. Consistent with historic practice, where residential development results in a net increase in dwellings, 35% affordable housing has been sought on development sites. Evidence collected in the withdrawn Local Plan (CIL Viability Study 2020 [DV-005]) found that this requirement is acceptable in most cases.
- 5.3.3. The Council will therefore seek 35% affordable housing on development sites proposing 10 or more units.

- 5.3.4. In those cases where the affordable housing requirement does not generate a whole number, a financial contribution will be sought equal to the value of the partial unit. Alternatively, the number can be rounded up to the nearest whole number and all units can be provided on site.
- 5.3.5. The affordable housing provision in this SPD will be reviewed in a plan review.

5.4. Affordable Housing Tenure

- 5.4.1. As identified in section 5.3 the Council will seek 35% affordable housing on development sites. The Council will expect 25% of the site to be affordable housing for rent products, the remaining 10% should be made up of affordable home ownership products.
- 5.4.2. Where the calculation of 25% of the total number of affordable dwellings to be provided as affordable housing for rent does not result in whole numbers, it should always be rounded up in order to achieve the required 25%.
- 5.4.3. The balance of the total number of dwellings, should be provided as affordable home ownership products. This can include rent to buy schemes, discounted market sale housing (including First Homes), shared ownership and other routes to affordable home ownership as defined by the NPPF.
- 5.4.4. Where a dwelling under the First Home scheme is implemented a Section 106 Agreement will be required securing the necessary restrictions on the use and sale of the property, as

well as a legal restriction on the title of the property to ensure that these restrictions are applied to the property at each future sale.

- 5.4.5. As highlighted in the PPG (Paragraph: 001 Reference ID: 70-001-20210524) First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations.
- 5.4.6. The affordable housing provision for rent should proportionately reflect the needs identified by the Council, in determining the optimum affordable housing mix by size and type. This will be considered on a case-by-case basis.
- 5.4.7. On site provision of affordable homes are the preferred delivery of affordable housing in the borough, only in exceptional circumstances will financial contributions in lieu of affordable housing be allowed, this is set out in section 7. In order to increase the level of affordable housing provided on sites there may be some instances where the Council may consider a variation in the level of affordable housing tenure mix than that set out in paragraph 5.4.2. In particular urban flatted schemes that have difficulties in delivering on site provision of affordable rented products, for example where leasehold agreements prohibit on site provision, the Council may consider a variation in tenure mix, this will be considered on a site-by-site basis.

5.5. Affordable Housing Mix

- 5.5.1. The evidence base (SHMA 2016, SHMA Addendum 2017 and SHMA Addendum 2020) indicates that there is a clear need for a diverse mix of house sizes and types in Castle Point. By securing an appropriate mix of homes on development sites, these needs can be met.
- 5.5.2. The Council expects a suitable mix of housing in both the market and affordable sectors to enable a better flow of existing housing stock and to meet the needs of different demographics within the borough.
- 5.5.3. The Council may consider a different mix, for example, if local housing needs would benefit from an alternative, the location does not support the delivery of a particular size or type of homes or a revised mix would help to redress the balance of existing affordable homes in an area. This should be discussed with the Council's Housing Team at the pre-application stage.
- 5.5.4. The housing mix on any site should reflect the local context of the site, as it will be recognised that it will not be possible to secure a full mix of house sizes and types on all sites. Very small sites will be constrained by site capacity and the existing street scene. However, larger sites will be able to make an increasingly more significant contribution to the mix within the local housing market. In taking the local context into account it is recognised that some sites may

provide mainly flatted developments, whilst others will potentially provide more houses and bungalows. Consideration will be made on an individual site basis.

Affordable Housing for Rent

- 5.5.5. The Council reviews its housing register annually. As of January 2022, the housing mix highlighted in table 5.1 is the existing housing mix requirements. This provides a guide for the types of dwellings required for affordable housing for rent products, the Council would expect delivery against the percentages set out below, or consultation with the Council’s Housing team for latest demand requirements.
- 5.5.6. Bands A and B are the highlight priority bands for the Council and the needs identified within those bands will be given the greatest consideration when defining housing mix requirements for affordable housing for rent products. This usually has the greatest need in the form of 1- and 2-bedroom properties with some need for 3+ bedroomed properties.

Table 5.1: Housing Mix Requirements for Affordable Housing for Rent November 2022

Breakdown of Housing Need						
Band	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	Total
A	37	43	22	2	1	105
B	47	36	38	7	0	128
C	115	83	51	2	0	251
Sheltered	60	0	0	0	0	60
Total	259	162	111	11	1	544
Dwelling Type Need as a Percentage of Total Need						
Band	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	Total
A	35%	41%	21%	2%	1%	19%
B	37%	28%	30%	5%	0%	24%
C	46%	33%	20%	1%	0%	46%
Sheltered	100%	0%	0%	0%	0%	11%
Total	48%%	30%	20%	2%	0%	100%

Affordable Home Ownership

- 5.5.7. There is a demand for different property sizes in the borough. A Strategic Housing Market Assessment (SHMA) was completed in 2020 to reflect private housing market needs. The Council expects affordable home ownership products delivered in accordance with private housing market needs, as set out in table 5.2. Alternatively, market survey data to justify a deviation from this mix will be required. The following housing mix is therefore the most up to date assessment:

Table 5.2: SHMA 2020 Housing Need by Size

Size of Accommodation Required			
1-bed	2-bed	3-bed	4 or more bed
6%	22%	43%	29%

5.6. Specialist Accommodation

- 5.6.1. The Council will support specialist or supported accommodation where there is an identified need in the borough, such as for older people and people with disabilities. This may be provided as solely affordable housing or sought as part of a market housing scheme.
- 5.6.2. The Council will consult other relevant agencies to ensure that the provision does not place any unnecessary burdens upon the borough's infrastructure, such as health and social care. This may include Essex County Council who has responsibilities for adult social care and may have specific specialist accommodation requirements.
- 5.6.3. The Council will encourage the delivery of affordable homes to meet the M4(2) requirements of the Building Regulations 2015 to enable homes to be adaptable to users. In some instances where there is a need on the Council's housing register, the Council may request specialist accommodation e.g. in the form of a fully wheelchair accessible property. Where the addition of specialist features may cause a disproportionate cost to the developer the Council may consider adjusting affordable housing provision, this should be discussed at the pre-application stage.

5.7. Mixed-Use Schemes

- 5.7.1. Where a scheme proposes non-residential development alongside an element of housing, affordable housing will be required for all qualifying residential development.
- 5.7.2. Where planning permission is granted for a mixed use-scheme and there is a proposal to change the use of the non-residential element to residential, a full re-assessment of the affordable housing provision will be required.

5.8. Loss of Affordable Housing

- 5.8.1. Given the acute demand for affordable housing in the borough, the loss of affordable housing will not normally be acceptable unless this is to enable the provision of an equivalent or greater number of affordable homes.
- 5.8.2. The only exceptions would be:
 - where wider housing benefits would outweigh the loss of units in that particular location by providing the type of affordable housing that cannot be provided elsewhere;
 - the condition of stock is so poor that it is not viable to refurbish; and
 - it is not feasible to develop the same amount, for example for design reasons.
- 5.8.3. In these cases, to compensate for any loss it is expected that the Council would require the on-site affordable housing tenure and mix to meet identified local needs.
- 5.8.4. The approach should be agreed at the pre-application stage.

5.9. Artificial Sub-Division of Sites

- 5.9.1. Proposals which seek to circumvent the affordable housing requirement set out in this SPD by developing at a low density, through phased or piecemeal development, by re-drawing the boundary of a larger site or by sub-dividing land will not be acceptable.
- 5.9.2. The Council will base the affordable housing requirement on the gross number of dwellings that can be accommodated on a site. In reaching a view on this, the Council will take into account such issues as land ownership, planning history, topography, site constraints and the natural boundaries of the site.

5.10. Vacant Building Credit

- 5.10.1. National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution. Affordable housing contributions will be sought for any increase in floorspace.
- 5.10.2. The vacant building credit applies where the vacant building has not been abandoned. The reference to abandonment is the applicable planning test for the vacancy credit and is recognised in law. The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:
 - The condition of the property
 - The period of non-use
 - Whether there is an intervening use
 - Any evidence regarding the owner's intention
- 5.10.3. The intention of vacant building credit is to incentivise brownfield development and the re-use of vacant buildings so only relevant buildings will be considered as being able to generate vacant building credit. For example, a brownfield site containing a scrap yard with few buildings would not be relevant because the amount of credit that could be applied would be limited and would do little to incentivise development.
- 5.10.4. Where a proposal provides a reasonable return to the landowner, a competitive profit to a developer and is policy compliant, vacant building credit should not be applied as the development would be sufficiently incentivised and viable. Applying vacant building credit at the outset would reduce the affordable housing contributions and potentially increase the financial returns to both landowner and developer. If a developer considers vacant building credit should be applied, sufficient evidence will be required to ensure that an application can be considered appropriately. This may include a viability assessment (see [Developer Contributions Cover Note SPD](#)). The vacant building credit will be taken from the residual land value.
- 5.10.5. National policy states that vacant building credit should not apply to every vacant building, therefore the Council will be mindful to a building being made vacant for the sole purposes

of re-development and/or the wilful neglect of properties with the intention of securing redevelopment. Therefore, applicants must demonstrate that the relevant vacant buildings have been actively marketed on realistic terms based on the current or any permitted use for at least 12 months continuously in the previous two years. The Council may also use Council Tax, Business Rates or Electoral Register records in their vacant building credit assessment.

- 5.10.6. Where the Council considers that vacant building credit applies where there is an overall increase in floorspace in a proposed development that includes a vacant building, the Council will apply the following formula to calculate the affordable housing contribution, an example of how this could be used is below:

Elements of the scheme	Floorspace (sqm)
Existing floorspace	500
<i>Existing floorspace to be retained</i>	<i>300</i>
<i>Existing floorspace to be demolished</i>	<i>200</i>
Proposed	1500
Increase in floorspace	1000
Vacant building credit calculation example	
35% (example affordable housing requirement) of 20 units = 7	
1000sqm as a percentage of the overall development of 1500sqm = 66.67%	
66.67% of 7 units = 4.66 units	

- 5.10.7. In this case the Council will require 4 affordable units on site and the 0.66 units as a financial contribution. Alternatively, the figure can be rounded up to the nearest whole number and 5 affordable units can be delivered on site.
- 5.10.8. For wholly residential schemes the total proposed Gross Internal Area (GIA) will be the GIA of the sum of all dwellings. Where flatted development is proposed the GIA will include all communal and circulation areas. For mixed use schemes, only the GIA of the proposed residential elements will be included.
- 5.10.9. For outline planning applications it may not be clear how many dwellings are proposed or the size of those dwellings. In these cases, it will be difficult to identify the vacant building credit. A Section 106 Agreement will ensure that the issue can be dealt with at Reserved Matters stage. All requests for vacant building credit will be included in the Planning Committee report.

Vacant Building Credit and the relationship with CIL Credit

- 5.10.10. In terms of CIL, existing 'in-use buildings' can act as a credit, or can be used to off-set the 'chargeable development' liable for CIL payment. Each square metre of existing buildings on the site reduces the CIL charge by one square metre.
- 5.10.11. The CIL Regulations define the credit as applying to 'in- use buildings', these buildings are defined as buildings which are:
- Present on the day that planning permission first permits the development; and

- Contain a part that has been in lawful use for a continuous period of at least six months within the period of three years ending before the planning permission first permits the chargeable development.

5.10.12. The day planning permission first permits the chargeable development is the day the last reserved matter is approved, unless the Council agree within the applicant to defer this until the pre commencement conditions are discharged.

5.10.13. Applicants should not seek to claim 'in-use buildings' for CIL credit in addition to claiming vacancy for vacant building credit. Applicants will need to consider both credits carefully and plan their development accordingly.

5.11. Amendments to Planning Permission

5.11.1. When affordable housing is being provided and amendments to a planning permission increase the number of market houses/floorspace, the affordable housing requirement sought will be a percentage of the revised total number of homes across the application site.

5.11.2. Where amendments are sought to a planning permission that is being delivered in phases, the affordable housing requirement will be re-assessed and applied to the total number of units proposed in the remaining phases. If the number of dwellings is increased the Council will expect an increase in affordable housing in accordance with the requirements set out in this SPD.

6. Providing Affordable Housing

6.1. On-Site Provision

- 6.1.1. Consistent with national policy, the preferred approach in the borough is for the on-site provision of good quality affordable housing.
- 6.1.2. The tenure, phasing and housing mix may be re-considered to improve viability along with the possibility of providing grant or other forms of public subsidy. Only in exceptional circumstances where, a viability assessment shows that it is not feasible to deliver all, or part of the provision on-site and no grant subsidy is likely, will consideration be given to an equivalent financial contribution or the provision of free-serviced land transferred to a Registered Provider.

6.2. Public Subsidy

- 6.2.1. So that high quality, affordable homes can be delivered that meet identified needs, the Council expects developers to cover the cost of the affordable homes so that there is no need for public subsidy (including grants, public loans and public land). The expectation is that policy compliant schemes will be viable without the need for grant or other forms of subsidy.
- 6.2.2. Where only a proportion of the required number of affordable homes can be secured as part of a viable scheme, a review mechanism will be incorporated in the Section 106 agreement to ensure that if grant, subsidy or other investment become available at a later date a review of the affordable housing provision can be secured in accordance with a policy compliant scheme.

6.3. Design of Affordable Housing

- 6.3.1. To promote integrated communities, affordable housing should be designed to meet the requirements set out in the Council's adopted Residential Design Guidance SPD and be indistinguishable from market housing, in terms of the quality of the homes provided, the adequacy of internal living and the location and quality of outdoor amenity space and parking provision.
- 6.3.2. Homes should be designed in a way that makes them suitable to be taken on by Registered Providers, this includes meeting Nationally Described Space Standards. The Council would encourage a proportion of affordable homes to meet the M4(2) requirements of the Building Regulations 2015 to enable homes to be adaptable to users.
- 6.3.3. Applicants should discuss design requirements with the relevant Registered Provider or the Council's Housing Team especially in regard to the types of items used in the final homes to ensure it fits with the stock used by the provider such as heating systems, kitchen and bathroom types. This ensures the effective ongoing management of such homes.

6.4. Management

- 6.4.1. In general, affordable housing should be developed in conjunction with a Registered Provider, approved by Homes England. In exceptional cases, where an alternative provider is involved, they will need to be approved by the Council and will be expected to deliver affordable housing in the same way as a Registered Provider. Evidence of equivalent accountability, funding for the scheme and long-term management and maintenance arrangements will be required.
- 6.4.2. A Section 106 Agreement will be used to confirm the approach and to ensure, where appropriate, that the dwellings will remain available in perpetuity for those in housing need. There may be legitimate circumstances where affordable housing can be sold, for example, through right to buy or staircasing out of shared ownership. The provider will be expected to make every reasonable effort to recycle any subsidy for affordable housing in the borough.
- 6.4.3. In setting affordable rents, Registered Providers should be guided by the Local Housing Allowance (LHA) rates for the borough, as these rates will limit the amount of Housing Benefit available to households. Registered Providers are expected to use these rates as the upper limit in setting affordable rent levels. See the Council's current rates here www.castlepoint.gov.uk/local-housing-allowance/
- 6.4.4. The location, size and number of bedrooms, occupancy capacity and the tenure and phasing of affordable housing should be agreed at an early stage with the Council and the Registered Provider who will purchase and manage the affordable housing. So that the affordable housing meets all planning requirements, and the rents, service charges and maintenance are affordable to future residents.
- 6.4.5. Developers must ensure the affordable dwellings are transferred as completed units at a price agreed with the Registered Provider, reflecting what they can pay for the dwellings without the need for other public subsidy. The Council expects that delivery of affordable housing will be based upon the provision of free serviced land plus the cost of construction of the units and a reasonable margin based upon current recognised standards. Developers may seek to obtain a value for affordable homes that is higher than this but in so doing should not use the expectation of these higher values as a minimum threshold.
- 6.4.6. Appropriate occupancy and management arrangements should be put in place: a nominations agreement must be signed for affordable rented properties with the Registered Provider or other affordable housing provider so that the Council has 100% nomination rights on the first let of all affordable homes in the borough.
- 6.4.7. Where affordable rented properties are re-let, the Council will seek 100% nomination rights, provided that they can fill the property within 8 weeks from the date it is deemed to be in a suitable condition for re-let.

- 6.4.8. For all Intermediate Accommodation, the Section 106 agreement will normally require the Registered Provider to seek tenants that meet locality eligibility criteria for Castle Point both in the first instance, and during any re-sale / re-let. The Council will relax this requirement if a suitable tenant cannot be identified within 3 months of the property being completed / deemed to be in a suitable condition for re-sale / re-let.

6.5. First Homes Eligibility Criteria

- 6.5.1. In accordance with the national Planning Practice Guidance, particular eligibility criteria for people purchasing under the First Homes scheme is applied. Those who are eligible to purchase a First Home includes:

- A purchaser (or, if a joint purchase, all the purchasers) of a First Home should be a first-time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers.
- Purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding £80,000 (or £90,000 in Greater London) in the tax year immediately preceding the year of purchase.
- A purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price.

- 6.5.2. In addition to the above criteria the Council, through Section 106 Agreements will enforce a local connection test criteria to ensure that local people are given first opportunity for First Homes in the borough. This local eligibility criteria will apply for a maximum of three months from when a home is first marketed. If a suitable buyer has not reserved a home after three months, the eligibility criteria will revert to the nationally set criteria as set out in paragraph 6.5.1.

- 6.5.3. Local connections may include (but are not limited to) current residency, employment requirements, family connections or special circumstances such as caring responsibilities. The applicant should meet one of the following criteria to qualify for a local connection:

- Have been a resident in the Castle Point borough continuously for the last five years
- Have close adult relatives who have been a resident in the borough continuously for the last five years from the date of the application (this includes parents, siblings or children over the age of 18 including step equivalents).
- Have caring responsibilities for someone who is currently a resident in Castle Point and have been for at least the last five years to the date of the application and who they are in receipt of carers allowance in relation to the applicant;
- Have paid permanent contracted employment within the Castle Point borough for 24 hours or more a week (16 hours for single parents with dependent children) and the employment has been for a continuous period of 12 months prior to the application.

- 6.5.4. Exemptions to the local connections listed in 6.5.3 include:

- Applicants who are serving in or have served in the regular or reserve armed forces within the 5 years immediately prior to the date of their application.

- Applicants who are serving or former serving members of the regular armed forces or reserve forces who suffer from a serious injury, illness or disability sustained as a result of their service.
- Applicants who are a bereaved spouse/civil partner of a former serving member of the regular armed forces and have recently ceased or will cease to be entitled to reside in services accommodation following the death of their spouse/civil partner.
- Applicants who lived outside the borough for studying or educational purposes but have lived within the borough for six years in the past ten years.
- Applicants living in temporary accommodation outside the Borough who had a local connection at the time they were placed there by Castle Point Borough Council.
- Applicants who are leaving an institution such as a prison or secure unit or a hospital, rehabilitation centre, refuge, hostel or supported accommodation scheme and did have a qualifying local connection to Castle Point through residence in settled accommodation immediately before they moved into their current accommodation.
- Other exceptional circumstances

6.6. Delivery of Affordable Housing

- 6.6.1. The expectation is that no more than 80% of the market housing on the application site should be completed before all affordable housing has been constructed, transferred or leased to the Registered Provider.
- 6.6.2. Where land is being transferred it needs to be serviced and transferred before 40% of the market housing has been constructed. This will be set out in the Heads of Terms for the Section 106 Agreement.
- 6.6.3. Where affordable housing is within a phased scheme, the delivery of the affordable housing element of the development will be agreed within the Section 106 Agreement.

7. Financial Contribution in Lieu of Affordable Housing

7.1. Calculating a Financial Contribution

7.1.1. A financial contribution will only be acceptable where:

- A policy compliant scheme does not generate a whole number. For example, if the percentage requirement generates 3.5 properties, 3 properties should be provided on site and either an additional property is provided to round up to the nearest whole number, or a contribution would be required equivalent to the 0.5; or
- To create a better quality development there are justifiable design and housing reasons for affordable housing to be located off-site. For example, if the site size would result in a design and/or type of homes that would not meet the housing requirements identified by the Council; or
- Due to the type of development, where a freehold cannot be transferred to a Registered Provider; or
- Provision of any affordable homes on site would make a development financially unviable but there is sufficient value from the development to make a financial contribution; or
- The Council agree that the need for affordable homes could be better served through the receipt of financial payment.

7.1.2. The percentage target will be applied to the total number of market dwellings to be provided on the application site, including any increase in market units on the application site resulting from the provision of a financial contribution. Unless the type of affordable housing provided on site indicates otherwise, it should be assumed that this will be for a 2 bedroom, 4 person terraced house: this is the most common type of affordable housing required in the borough.

7.1.3. The contribution will be based upon the average benchmark price to a Registered Provider for a home of that size and tenure (at the time of the application). The Council's Housing Services will provide this information.

7.1.4. All contributions will be based upon the formula below:

Developer contribution: $A = B \times C$

A: the affordable dwelling payment

B: the average price for an affordable dwelling (by size and tenure)

C: policy requirement number of units

For example if 0.1 of a two bed property is required, which a Registered Provider is paying £300,000 for, then the financial contribution would be £30,000 = 300,000 x 0.1.

7.1.5. This approach is considered appropriate and in line with national legislation. The cost is a generally accepted value between Registered Providers and developers because it is directly linked to the cost of providing equivalent affordable homes in the borough without including the cost of land which would be a disproportionate level of contribution for schemes which are struggling with viability. The costs are proportionate and can also be easily updated to

take account of any changes in market conditions so the approach will remain relevant in the long term.

7.2. Payment of Contributions

- 7.2.1. Timing of delivery is important and the structure of the Section 106 Agreement will reflect this. The phasing of which payments are made will be agreed in a Section 106 Agreement, however all payments must be made by the date of completion of 80% of the market units on the site, or in the phase that is being completed. The date of completion will be defined by the building control certificate or registration for Council Tax, whichever is earliest.
- 7.2.2. This should be in accordance with a scheme of works to be submitted to the Council for approval. Where a development is being constructed in phases, this will apply to each phase unless it is agreed that the provision of affordable homes can be addressed in subsequent phases. In the case of large financial contributions, it may be possible to negotiate phased payments, particularly where it helps to improve scheme viability.
- 7.2.3. So that a financial contribution keeps its value and reflects changes in inflation costs arising between the date of planning permission and payment, financial contributions will be adjusted in line with an index of inflation, usually the Royal Institute of Chartered Surveyors (RICS) and Building Cost Information Service (BCIS) indices. This will be set out in a Section 106 Agreement.
- 7.2.4. The contribution will be ring-fenced and - because affordable housing is not capable of being funded by the Community Infrastructure Levy - if necessary, pooled:
- to provide or increase the proportion of affordable housing in the borough;
 - alter the tenure of affordable homes to help deliver affordable housing; or
 - make changes to the existing housing stock to meet an identified housing need; or
 - adjust tenures to meet the need of the borough
- 7.2.5. In some cases, contributions may be sought to enable the provision of affordable housing - e.g. to provide infrastructure, remediation or re-provision of open space to allow the release of a suitable site for affordable housing where this will be the most cost-effective solution and additional affordable homes will be provided.
- 7.2.6. All contributions will be allocated within 10 years of receipt of the funding. This is considered to be a reasonable timescale for the delivery of affordable housing. However, where a more strategic or complex intervention is needed, or resources need to be pooled from several large-scale developments, then a longer time period may be sought (up to a maximum of 15 years). If the contribution is not spent at the end of the agreed contribution period, if requested by the payee, it will be returned.
- 7.2.7. Where a contribution is required, in all cases the Council will include a guarantor provision in the Section 106 Agreement. As a Section 106 Agreement is ensure that a development is acceptable in planning terms, a guarantee that payments will be made will provide that assurance. Without guarantees, the Council cannot guarantee that a Section 106 Agreement will be signed and delay the issue of the planning permission.

7.2.8. How the guarantee is provided will be dealt with on a case-by-case basis but could include parent company guarantees, a company director's guarantee or a bond. Please note that where a Section 106 Agreement includes other financial obligations on the developer, the guarantee must also include those obligations.

8. Procedure for Planning Applications and Section 106 Agreements

8.1. Pre-Application and Application Negotiations

- 8.1.1. Developers should discuss their proposals with the Council before submitting a planning application. Pre-application discussions enable developers to positively discuss appropriate provision and justify their approach. Pre-application discussions will highlight the likely impact of development, the amount and type of affordable housing required, and level of other developer contributions likely to be sought. This service is intended to help speed up the development process and avoid unacceptable proposals.
- 8.1.2. For pre-application discussions to be productive developers need to ensure that as much information as possible is supplied. This should include, where known, information on:
- Total amount of housing proposed;
 - Total amount of housing proposed in terms of units and habitable rooms;
 - Amount of affordable rented and affordable home ownership housing proposed;
 - Number of bedrooms, floor areas and number of people able to occupy affordable rented and intermediate housing units;
 - For each tenure, the numbers of dwellings of different sizes (i.e. number of bedrooms);
 - Phasing of delivery and the mechanism for handover of affordable homes;
 - Mechanisms for ensuring adequate management of the properties.
- 8.1.3. This information will form the basis of the draft Heads of Terms.
- 8.1.4. If pre-application discussions are not sought, affordable housing requirements will be identified when a planning application is submitted. To reflect current government thinking the Council will expect all relevant applications to submit draft Heads of Terms containing the information identified in paragraph 8.1.2 and proof of title. The applicants' solicitor's details should also be provided.
- 8.1.5. At outline planning application stage it may not be clear how many dwellings are proposed, and potentially this number could change at reserved matters stage. Where the housing mix has not been determined in an outline planning application, the Council will append a planning condition which stipulates that the details of the housing mix are submitted as part of the reserved matters application and should be in accordance with the Council's latest SHMA or based on discussions with the Council's Housing Team as set out in section 5.5 of this document.
- 8.1.6. When submitting an application or through the pre-application process, the applicant should ensure that as much information is submitted in terms of affordable housing to inform a Heads of Terms. Applicants should check the Council's validation checklist to ensure that the correct information is submitted.

8.2. Section 106 Agreements

- 8.2.1. Provision of affordable housing will be secured by Section 106 Agreement. This is a deed entered into by the Council and the landowner and/or applicant which outlines the details of a planning obligation, such as affordable housing. It is made under the provisions of Section 106 of the Town and Country Planning Act 1990.
- 8.2.2. Planning obligations will be used to secure the following elements related to the provision of affordable housing, *inter alia*:
- The number of units;
 - Eligibility criteria;
 - Nomination rights;
 - The type of units;
 - Tenure of units;
 - Phasing of units;
 - Location of units;
 - Parking provision;
 - Commuted sums in lieu of provision (where appropriate);
 - Guarantor provisions;
 - A late-stage viability review, if required.
- 8.2.3. Triggers will be used to enable delivery of affordable housing or a financial contribution. Appropriate clauses will be included to secure interest for late payment from the relevant trigger point in the agreement. In exceptional cases, the original Registered Provider may be unable to fulfil their agreement to deliver the housing. To prevent the housing being lost from the affordable stock a standard clause will be used to require the developer to secure a second provider.

8.3. Review Mechanism

- 8.3.1. To maximise affordable housing delivery in the longer term and acknowledging the potential for changes in values in the housing market, the Council supports the use of review mechanisms. Where the agreed affordable housing provision is below the 35% required through this SPD, the Council will require a review mechanism.
- 8.3.2. Review mechanisms provide a reappraisal mechanism to ensure that maximum public benefit is secured over the period of a development and can encourage the build out of schemes. These mechanisms recognise the need to maximise affordable housing provision and address the economic uncertainties which may arise over the lifetime of a development proposal. They allow increases in Section 106 contributions to reflect changes in the value of a development from the date of planning permission to specific stages of the development programme. Such approaches are intended to support effective and equitable implementation planning policy while also providing flexibility to address viability concerns such as those arising from market uncertainty.
- 8.3.3. Viability tested schemes should be subject to late reviews which will be applied once 75 per cent of homes are sold, or at a point agreed by the Council. The benefit of this approach is

that the review can be based on values achieved and costs incurred. The review takes place prior to sale of the whole development to ensure that the review and any additional contribution arising from this are enforceable. The outcome of this review will typically be a financial contribution towards off-site affordable housing provision.

9. Monitoring and review

9.1.1. The delivery of affordable housing through new development will be monitored annually in the Council's Infrastructure Funding Statement and also in the Council's Authority Monitoring Report (AMR). It will enable the Council to identify and monitor the number of developments that meet identified standards across the borough.

9.1.2. A review of this SPD will be considered if:

- The AMR identifies that this SPD is not effective in delivering the identified level of affordable housing;
- There are significant changes to the local evidence base which indicates that the level of affordable housing set out in this SPD is undeliverable;
- There is a significant change in national planning guidance; or
- This SPD is insufficiently effective in enabling affordable housing.