

## Appendix D

### Updates to affordable housing policy – December 2019

Changes to the National Planning Policy Framework - NPPF (February 2019) and the national Planning Practice Guidance - PPG (July 2018), have led to changes in how the District Council's affordable housing policy should be considered. Affordable housing policy is set out in the Core Strategy Policy SP3 and accompanying Affordable Housing Supplementary Planning Document (SPD) 2011. Policy should now be considered in the context of the following changes.

#### What is the level of affordable housing now sought?

SP3 seeks the provision of affordable housing on new residential developments. The levels are as set out below.

Exemptions will be made where the site or proposed development comprise ("exemption sites"):

- a) Solely Build to Rent homes
- b) specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
- c) propose to be developed by people who wish to build or commission their own homes; or
- d) is exclusively for an entry-level exception site or a rural exceptions housing site.

Number of new homes in the development/size of site	Development is within an Area of Outstanding Natural Beauty (AONB) - % affordable housing	Development is not within an AONB - % affordable housing
0-5 homes or site is less than 0.5 hectares	0	0
0-5 homes and site is 0.5 hectares or more	10*	10*
6-9 homes and site is less than 0.5 hectares	20*	0
6-9 homes and site is 0.5 hectares or more	20*	20*
10-14 homes irrespective of size of site	30**	30**
15-24 homes irrespective of size of site	40**	40**
25+ homes irrespective of size of site	40***	40***

Key:

\* The affordable housing is provided in the form of a financial contribution payable on completion of the development.

\*\* This triggers a small number of affordable homes, which may not provide a viable proposition for our delivery partners. A financial contribution in lieu of any affordable housing on site, payable on commencement of development, may be sought. The Housing Policy Manager will advise the planning officer in all such cases.

\*\*\* In exceptional circumstances, e.g. particular forms of development or the application site is considered to be in a remote location, it may not be suitable or economic for the provision of affordable housing on the development site. The Housing Policy Manager will advise the planning officer in all such cases, based on the following options:

- A reduced level of affordable housing provision on site plus a financial contribution in lieu of the shortfall, payable on commencement of development;
- A financial contribution in lieu of any affordable housing on site, payable on commencement of development;
- The affordable housing to be provided on an agreed, alternative site within the District, which has been secured by the applicant. This is as per Housing Strategy, which was adopted at Full Council on 18 July 2017.

The SPD provides the method for calculating a financial contribution

**If affordable housing is provided on site, what should the tenure mix be?**

SP3 specifies 65% of the affordable housing to be provided on site should be for Social/Affordable Rent and 35% for intermediate housing. This tenure split does not apply to exemption sites.

Paragraph 64 of NPPF, expects that on major developments, at least 10% of the homes are to be made available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups, or the proposed development is an exemption site.

It is recognised in certain circumstances (such as flatted developments or high local house prices), a policy compliant mix may not be suitable. Also, in some areas of the District where there is already a substantial number of homes for Social Rent, it may not be appropriate to seek a policy compliant mix. This position is recognised in Housing Strategy. The Housing Policy Manager will advise the planning officer regarding the preferred tenure mix in all cases.

## What developments trigger affordable housing?

Paragraph 63 of the NPPF stipulates affordable housing should not be not be sought for residential developments that are not “major developments”, other than in “designated rural areas”. Major developments are defined as developments comprising 10 homes or more or where the site has an area of 0.5 hectares or more. The District Council has approved the implementation of a lower threshold in designated rural areas (Cabinet, March 2015) where affordable housing is triggered on developments comprising 6 homes or more. Designated rural areas include Areas of Outstanding Natural Beauty (AONB). For details of which Parishes are within an AONB, please see **Appendices A and B**.

Paragraph 63 also confirms the concept of "vacant building credit, requiring the District Council to off-set affordable housing contributions when vacant buildings are brought back into use. Please see **Appendix C**.

## What is affordable housing?

The NPPF defines affordable housing as follows:

**Affordable housing:** housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government’s rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household’s eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

c) **Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

### **Local definitions of affordable housing**

**Affordable Rent.** Homes are expected to be provided at rents which do not exceed 80% of the local open market rent or the relevant Local Housing Allowance, inclusive of service charges, whichever is the lower amount. This is to ensure homes are affordable to those reliant on Universal Credit/housing benefit.

**Build to Rent.** Developments are expected to:

- Be secured in single ownership providing solely for the rental market for a minimum 15 year term but where viable, up to a 30 year term, with provision for clawback of affordable housing contributions should this covenant not be met;
- The Council will look for tenancies for private renters to be up to three years' duration, with a six month break clause in the tenant's favour;
- Structured and limited in-tenancy rent increases, agreed with the Housing Policy Manager in advance;
- Provide a high standard of professional on-site management and control of the accommodation;
- Provide 30% on-site affordable housing in the form of Affordable Private Rent Housing;
- Affordable Private Rent Housing to be provided as one and two bedroom accommodation only, unless otherwise agreed by the Housing Policy Manager;
- Affordable Private Rent Housing is provided on an Assured Shorthold Tenancy with rents capped at 80% of the open market rent, including any service charges.

**Intermediate Housing.** This includes the following tenures – shared ownership, shared equity, starter homes, discounted market sales housing and intermediate rented housing.

**Intermediate rented housing.** Homes will be provided on an Assured Shorthold Tenancy at rents which do not exceed 80% of the local open market rent (including any service charges).

## Development Viability

Planning Practice Guidance makes clear it is the responsibility of land owners and planning applicants to take into account any costs, including their own profit expectations and risks, and ensure that proposals for development are compliant with local policy (Core Strategy). The price paid for land is not a relevant justification for failing to accord with relevant policies in the Core Strategy. It is important for developers and other parties buying (or interested in buying) land to have regard to the total cumulative cost of all relevant Core Strategy policies when agreeing a price for the land. Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the Core Strategy.

The Guidance sets out that the role for viability assessment is primarily at the Plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the Plan. The District Council commissioned a viability appraisal of its Core Strategy policies, including the provision of affordable housing (the Affordable Housing Viability Assessment). The appraisal supports the affordable housing policies contained in the Core Strategy and accompanying SPD. On this basis, the affordable housing policies set out in the Core Strategy are considered viable. Therefore all planning applications are expected to be Core Strategy compliant.

It will be up to the planning applicant to demonstrate whether “particular circumstances” (as set out in PPG, para. 007) apply in their view, and justify the need for a site specific viability assessment at application stage. If the District Council is not satisfied an assessment is justified, the planning application will be progressed in accordance with the Core Strategy. If the District Council agrees an assessment is justified, the planning applicant will be required to pay for the District Council to have an independent analysis of the site viability assessment. The District Council will commission its own choice of independent expert and the expert’s fees will be agreed with the applicant. If the applicant refuses to pay, or fails to pay for the District Council’s commission, it will result in the planning application being refused.

On Build to Rent schemes, it is anticipated a site specific viability assessment will be provided to inform clawback clauses in the S106 Agreement. The clawback clauses will specify an amount payable to the District Council in the event that homes are sold within the S106 covenant period. The clawback sum would be used to fund affordable housing delivery, as set out in the SPD

### **How is affordable housing secured?**

We provide a range of template legal agreements which we recommend are used to secure affordable housing. Please see the District Council's website for further details.

### **Who are the District Council's affordable housing delivery partners?**

A list of preferred delivery partners is maintained. Please see the District Council's website for the current list. The list includes a range of Registered Providers and Quercus Housing, the District Council's stand-alone affordable housing company

### **How are financial contributions used?**

Contributions are used in the way set out in the SPD. New affordable housing in the District may also be provided/delivered by Quercus Housing or any other body approved by the District Council. Approval is dependent on qualifying standards being met, including the ability of the organisation to provide and manage affordable housing on terms which, are comparable to those of a Registered Provider.

### **Rural Exceptions Housing**

In line with paragraph 77 of the NPPF, proposals for housing in rural areas to meet a specific local need (known as rural exceptions housing schemes) will be permitted as an exception to other Core Strategy policies.

The Council expects rural exception housing schemes to provide 100% local needs housing to meet identified needs. However, on rare occasions, proposals may include a small element of market housing to facilitate delivery. In these circumstances, the applicant will need to demonstrate to the satisfaction of the Council that a scheme that does not rely on market housing has been fully considered and why it has been discounted or considered to be unviable.

Where the Council is satisfied that an element of market housing is required, it will be expected, in the first instance, to be used to meet identified needs including housing for local essential workers, older people and plots for self build.

## Appendix A: List of NPPF “Designated Rural Areas” – Areas of Outstanding Natural Beauty (AONB)

The list below is intended as a helpful guide. For a definitive position on whether a site falls within an AONB, please contact the Planning Policy Team.

### Parishes wholly inside an AONB:

Cowden, Penshurst, Sundridge with Ide Hill

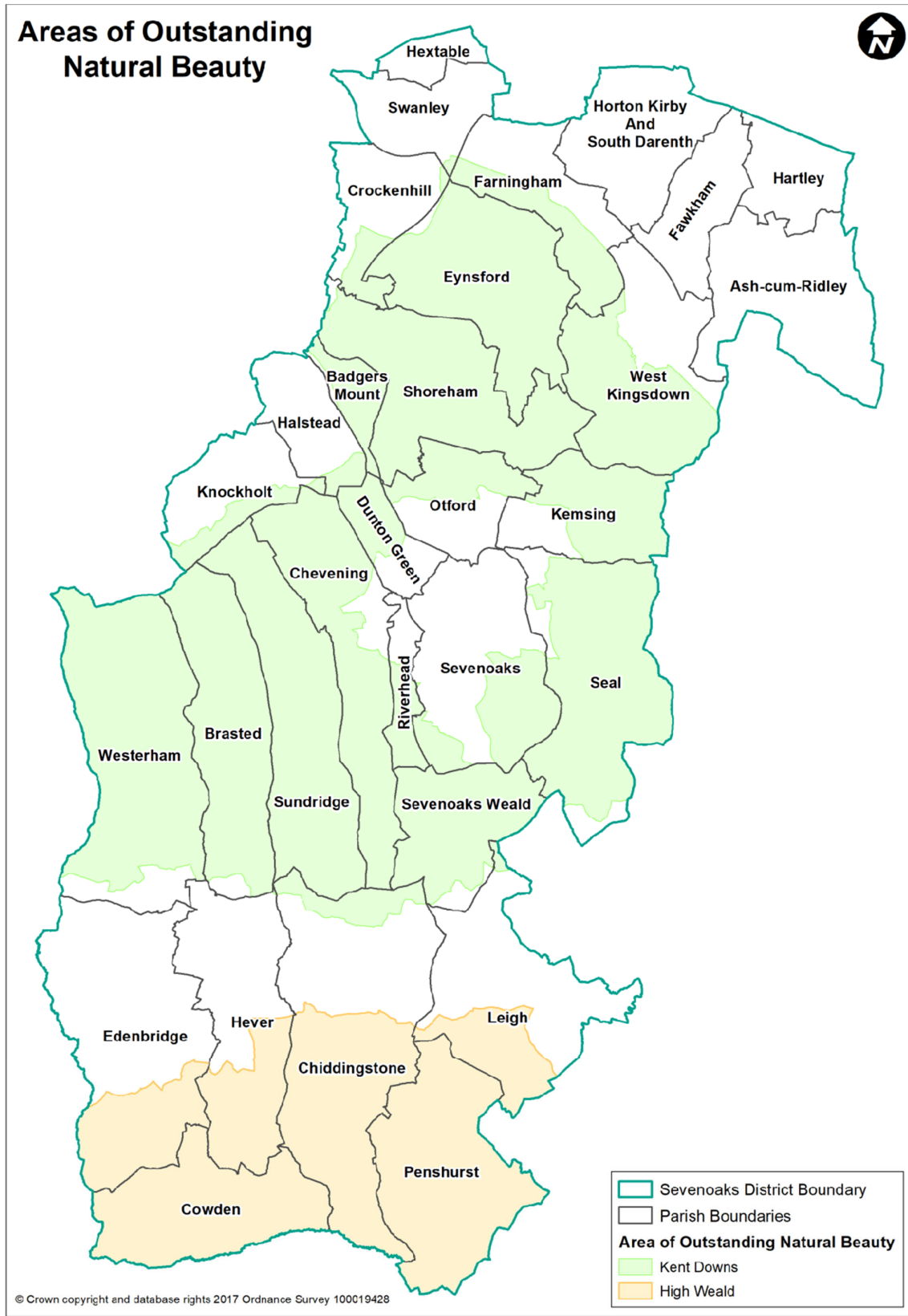
### Parishes wholly outside an AONB:

Ash Cum Ridley, Fawkham, Hartley, Hextable, Horton Kirby and South Darent

### Parishes partly within an AONB:

Badgers Mount (except for the land between Old London Road and the Orpington by-pass) Brasted (except a very small area in the south)	Chevening (except most of the developed area and some land south of the M26)
Chiddingstone (only the southern half and a small strip in the north)	Crockenhill (only the rural south east)
Dunton Green (only the rural north)	Edenbridge (only the rural south)
Eynsford (except a very small area near the M25)	Farningham (only south of the A20)
Halstead (only a small area in the south east) Kemsing (only the rural north and east)	Hever (only the southern half) Knockholt (only a strip of land in the south)
Leigh (only the rural south west and a very small area in the north)	Otford (only the northern half)
Riverhead (only the rural south)	Seal (except an area in the west near to Sevenoaks and a small rural area in the south)
Sevenoaks (only the rural south east and south west)	Sevenoaks Weald (except a small area in the south)
Shoreham (except two very small areas in the extreme west)	Swanley (only a very small rural area near the M25)
West Kingsdown (only the rural west and south)	Westerham (except the extreme south)

# Appendix B: Map of Areas of Outstanding Natural Beauty





## Appendix C: Vacant Building

### What is Vacant Building Credit?

Vacant building credit only applies in the following circumstances:

- There is a building in existence at the time the decision is made on the application. Buildings already demolished cannot count.
- The building must be vacant at the time of the decision. Occupied or partly occupied buildings cannot count, neither can occupied buildings that are expected to become vacant.
- The building must be brought back into use or demolished as part of the development. Vacant buildings on a site that do not form part of the development proposal cannot count.

### How is it calculated?

The NPPG states that the vacant building credit should be calculated by deducting the gross vacant building floorspace from the gross floorspace of the new development. Council policy calculates affordable housing requirement in numbers of units rather than floorspace and it will apply the vacant building credit as follows:

1. Subtract the qualifying gross vacant floorspace from the gross proposed floorspace to obtain the net increase in floorspace of the development.
2. Divide the net change in floorspace by the proposed floorspace to establish the net floorspace change as a proportion.
3. Establish the affordable housing requirement in units for the development based on Core Strategy policy, the SPD and updated context to policy set out above.
4. Multiply the affordable housing requirement by the net floorspace proportion to establish a revised requirement in terms of numbers of units.

For example if the development is for 90 units with a gross floorspace of 8,000 sq m and the existing qualifying vacant floorspace is 2,000 sq m then the calculation is as follows:

1. The net change in floorspace is 6,000 sq m (8,000 – 2,000)
2. The net change is 75% of the gross floorspace proposed (6,000/8,000)
3. The original affordable housing requirement is 36 units (40% of 90)
4. The new requirement is 27 units (75% of 36)

In developments where the affordable housing is in the form of a financial contribution, the contribution is calculated following the methodology in the SPD and updated context to policy set out above, using the net floorspace proportion.

In all cases where vacant building credit is sought, the applicant will need to provide evidence that the building meets the vacancy test, provide details of the floorspace of the proposed development and the vacant building and a calculation of the revised requirement following the approach above.