



Scrutiny Committee

Members are invited to a **Meeting of the Scrutiny Committee** to be held in the Conference Room, Riverside, Lowestoft on **Thursday, 19 October 2023 at 6.30pm**

This meeting will be broadcast to the public via the East Suffolk YouTube Channel at <https://youtube.com/live/CY-51GrIkhU?feature=share>

Members:

Councillor Mike Deacon (Chair), Councillor Dan Clery (Vice-Chair), Councillor Edward Back, Councillor Seamus Bennett, Councillor Jan Candy, Councillor Amanda Folley, Councillor Louise Gooch, Councillor Owen Grey, Councillor Mark Jepson, Councillor Geoff Lynch, Councillor Sally Noble, Councillor Sarah Plummer, Councillor Ed Thompson.

An Agenda is set out below.

Part One – Open to the Public

Pages

- | | | |
|----------|--|-----------------|
| 1 | Apologies for Absence and Substitutions | |
| 2 | Declarations of Interest
Members and Officers are invited to make any declarations of interests, and the nature of that interest, that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered. | |
| 3 | Minutes
To confirm as a correct record the Minutes of the Meeting held on 21 September 2023. | 1 - 11 |
| 4 | Review of Affordable Housing Planning Requirements ES/1703
Report of the Cabinet Member with responsibility for Planning and Coastal Management | 12 - 135 |
| 5 | Cabinet Member Scrutiny Session
To receive an update from Councillor Yule, Cabinet Member with responsibility for Planning and Coastal Management on the direction of travel for the services within her portfolio. | |

Part One – Open to the Public

Pages

6 Scrutiny Committee's Forward Work Programme

To receive any updates in relation to the Committee's Forward Work Programme.

Part Two – Exempt/Confidential

Pages

There are no Exempt or Confidential items for this Agenda.

Close



Chris Bally, Chief Executive

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Unconfirmed



Minutes of a Meeting of the **Scrutiny Committee** held in the Deben Conference Room,
East Suffolk House, on **Thursday, 21 September 2023 at 6.30pm**

Members of the Committee present:

Councillor Edward Back, Councillor Seamus Bennett, Councillor Jan Candy, Councillor Mike Deacon, Councillor Amanda Folley, Councillor Louise Gooch, Councillor Owen Grey, Councillor Sally Noble, Councillor Sarah Plummer, Councillor Ed Thompson

Other Members present:

Councillor Deborah Dean, Councillor Julia Ewart, Councillor Stephen Molyneux, Councillor Mike Ninnmey, Councillor Caroline Topping, Councillor Tim Wilson

Officers present: Teresa Bailey (Senior Licensing Officer), Chris Bing (Head of Legal and Democratic Services), Kate Blakemore (Strategic Director), Martin Clarke (Licensing Manager and Housing Lead Lawyer), Sarah Davis (Democratic Services Officer), Jo Hooley (Legal and Licensing Services Manager), Matt Makin (Democratic Services Officer), Alison Woodley (Licensing Officer), Nicola Wotton (Member Support and Civic Manager)

Others present: Stacey Lock (515151 Taxis, Lowestoft), Steve Wright MBE (Chair of the Licensed Private Hire Car Association)

1 Apologies for Absence and Substitutions

Apologies for absence were received from Councillors Clery, Lynch and Jepson.

Councillors Molyneux and Dean attended as substitutes for Councillors Clery and Lynch respectively.

2 Declarations of Interest

Councillors Candy, Plummer and Dean declared a non registerable interest in item 4 on the basis that they were members of the Licensing Committee.

Councillor Deacon also declared a non registerable interest in item 4 as he had received an email from a Taxi Operator in Felixstowe but he had not responded and the contents had been summarised and included on the Cabinet Member's report.

3 Minutes

The Committee noted that there were no outstanding matters arising as the requested information had been forwarded to Members on the Gunton Estate Project as well as how to report Modern Day Slavery and Domestic Abuse etc.

RESOLVED

That the Minutes of the Meeting held on 20 July 2023 be approved as a correct record and signed by the Chair.

Councillor Thompson joined the meeting at 6.35pm.

4 Review of Hackney Carriage and Private Hire Licences

The Chair thanked trade representatives who had responded to the consultation by submitting their comments in writing, a summary of which was appended to the report, and also thanked those who were watching on YouTube. In particular, he welcomed and thanked Steve Wright MBE and Stacey Lock who had agreed to address the Committee to give their views and respond to Members' questions.

The Cabinet Member for Community Health introduced his report ES/1642 which responded to the key lines of enquiry drawn up by the Scrutiny Committee. Councillor Ninmeyer stressed that taxis and private hire drivers and operators were an invaluable part of East Suffolk's transport system in terms of the night time economy, driving children to school and the rurality of the district. He explained that Covid had seriously impacted the sector with many drivers leaving the trade and the cost of living crisis was a challenge, so fares needed to be set at a fair rate for the public but also provide drivers with a living. He stressed that public safety was of paramount importance and the Licensing Committee and Team had robust measures in place to protect the travelling public in terms of making sure vehicles were roadworthy and drivers were fit and proper persons. Appropriate enforcement action was taken in partnership with the Police and other stakeholders and the Team had a strong track record when defending the Council's decisions in Court in the event of challenge. The Committee and Team were also mindful that they had a role to play in achieving the Council's net zero ambitions and there were currently reduced fees for hybrid and electric vehicles.

The Chair invited Councillor Wilson, the Licensing Committee Chair to speak. Councillor Wilson stated that the Team covered a wide range of matters but hackney carriage and private hire licensing was the busiest element of their work. He stated that, where there was something that required a suspension of a licence, it went to him but if he was absent it was considered by the Cabinet Member. He explained that, in relation to the Department's direction of travel, he had spoken to Officers at length regarding the two different fare regimes and he referred to the 2019 survey of the trade which had shown there was no appetite to unify them. He stated that he had also discussed with Officers about good practice from elsewhere to encourage the trade to use electric or hybrid vehicles and the Team had concluded the best way to do that was by incentivising them with a discount on their licence fee.

In response to the Chair's request for the queries submitted by Mr Stokell in Appendix L of the report to be answered, the Licensing Manager and Housing Lead Lawyer stated that:

- Members determined policy conditions, not Officers.
- Although Officers prepared reports, policy decisions were a matter for the Licensing Committee to decide upon.
- Licensing Committee Members were given full training when they were appointed to the Committee and regular refresher training was provided as and when required. He was confident the Licensing Members knew the difference between hackney carriage and private hire licences.
- The current conditions in the policy were legal and could be amended by the Licensing Committee at any time but would not come into effect until renewal or on issue of a new licence.

The Chair queried why private hire drivers were expected to report income from a journey when there was no legal requirement to do so and how did Officers know that drivers were reporting how much they earned correctly. The Licensing Manager and Housing Lead Lawyer responded that the cost of the journey was required in the event of any dispute which could actually protect drivers and operators. The Senior Licensing Officer stressed that the Team were not enquiring about the income of the driver. It was clarified that private hire drivers could charge whatever they liked provided the passenger agreed to it in advance or if it was a fare that was agreed in advance, but if they decided to charge the metered rate they should not charge more than that.

Councillor Gooch referred to Mr Bloom's comments in the report in relation to being able to wait at railway stations, having to make appointments with the Team to collect renewals and having stickers encouraging comments/compliments. The Licensing Manager and Housing Lead Lawyer stated that if the Team did not know when drivers were collecting their renewal, they would not know who that person was. He also stressed that the Council could not have someone who was not a fit and proper person getting hold of a badge and licence. Whilst acknowledging that point, Councillor Gooch queried if the process could not be made simpler for renewals bearing in mind the Team would already have the ID and reference number of the driver. The Licensing Manager and Housing Lead Lawyer stated that office receptionists were not East Suffolk employees so could not be asked to check documents and issue licences. In relation to the stickers, he added that the current ones asked for feedback not complaints and he read out an example of a compliment the Council had recently received about a driver.

Councillor Candy queried why there was no law to govern the hours a driver could work but the conditions stated they must advise their operators when they were fatigued. The Licensing Manager and Housing Lead Lawyer stated that, whilst there were limits for HGV drivers etc, there was no legislation for how many hours taxis could work but if the Licensing Committee wished to bring in a policy then as long as it was "reasonable" they could do so but obviously if the trade were not happy with it then they could challenge it. Councillor Bennett pointed out that the hours drivers worked could be a matter of public safety. The Licensing Manager and Housing Lead Lawyer reminded Members that the test was that drivers had to be a fit and proper person so if there was an issue that brought that into question for example an operator was

forcing the driver to work a lot of hours and the Team became aware of it then they would speak to the driver and the operator.

Councillor Wilson left the meeting at 7pm.

The Chair invited Steve Wright MBE, the Licensed Private Hire Car Association Chair to address the Committee. Mr Wright thanked the Committee for the opportunity to speak and, in response to an earlier comment, explained that about 18 years ago the Government had held a wide ranging consultation on hours, including the amount of dead time whilst drivers were waiting, and the conclusion was that the Working Time Directive Europe wide did not apply. He stated that this was unenforceable, however, these days software monitored hours and generally operators did not allow their drivers to work excessive hours. In terms of the national picture, Mr Wright stated that there was a massive shortage of drivers because they did not get a lot of assistance during Covid and many had retired. One of the main barriers to people entering the industry was the high cost of the licence so people were choosing to deliver parcels etc instead. He suggested there were too many regulatory requirements on drivers that should be left to the companies such as customer care standards. He also felt there was a lot of training and excessive things now required of drivers so they did not want to come into the industry. He pointed out that a consequence of this over-regulation was the impact on public safety because people could not get picked up by a taxi or private hire vehicle at night. He added that there was a lack of genuine enforcement on the streets in the evenings. In relation to Uber and other app based companies, he stated that these were a nightmare for the industry because they made it almost impossible to pre-book journeys and drivers worked for multiple operators and cherry picked jobs. In relation to Covid, many drivers had left the industry and the barriers to entry were considerable. He added that he did not understand why the DFT brought out statutory standards during Covid because it was the worst possible time. Many drivers had said for example that they did not need a driving test when they had been driving for 40 years with a clean licence. The Government recommendations had been devolved to local authorities who were already struggling to keep their taxi and private hire industry working without having these statutory standards introduced. He explained that he had been part of the Government's Task and Finish Group that had looked at what needed to be done. With regard to the Council's relationship with the trade in comparison with other Local Authorities, he stated this was generally very good but suggested that there could be improvements eg there were two tiers in taxi and private hire and he felt there was a blurring of the tiers in East Suffolk, and there was a specific difficulty in driving those with special educational needs eg he queried the point in sending drivers on a 2 day course if they were doing a fixed route for special education needs and disabled children because there was a lot of expense involved in this. He explained there were different levels of training required and some were unnecessary eg teaching drivers how to use a meter if they would never use one. He suggested customer care standards were for the company to decide and was a desirable not essential. He stated that everything added to the cost which reduced the number of drivers and compromised public safety for example driving test assessments for those that had been driving for 40 years with no endorsements added to the cost and were another reason people did not join the industry. He concluded that he had no real criticisms of the Licensing Department and they had a good relationship.

The Chair invited questions and Councillor Candy asked if it would help to attract drivers if there was a cohesive trade group that they could belong to. Mr Wright stated apathy was the biggest enemy and given Uber was wiping out businesses, he felt any encouragement to join a trade union or trade body would help.

The Chair invited Stacey Lock from 515151 Taxis in Lowestoft to address the Committee. Ms Lock thanked the Committee for the invitation to speak and stated that she was doing so from an operator's point of view and also could report what drivers had to say. She explained there was a huge lack of enforcement with very little street level presence for example it was very rare to see any enforcement on school runs which led to drivers doing what they wanted. She stated that the lines were blurred between hackney carriage and private hires and clarified that, despite what the Officers had said earlier, hackney carriage fares were not a fixed price because they could be charged as the meter was set or below but could not go above the metered rate. Whereas private hires could charge what they liked as long as the customer agreed to it in advance or the customer was happy with the estimate. She explained that some hackney carriage drivers worked for private hire operators and carried out fares for the operators but did not charge the hackney carriage set fare. She stated that she had reported this several times but there was no enforcement so drivers continued to do it. She added that some drivers would not drive for her because she did not allow it, whereas other operators did and this led to the public being ripped off for example if a driver picked up a fare that on a Council rate started at £4 but the operator's rate was £5 then the driver charged £5 and this happened daily. With regard to training, Ms Lock stated that her company was happy drivers and staff were educated but suggested the level gone to was madness eg she had worked in the business for 20 years and been a director for 7, but she still had to undertake the same training as a driver did. She felt she was more than qualified so queried why she needed to attend training especially when she had been asked to give feedback on it. She stated that there were three directors in her company and they all had to do training even though one did not have anything to do with the operational side of the business. She added that she had emailed Officers about this in August 2023 but had still not had a response so she did not know if she was abiding by the rules or not as the rules were unclear. Ms Lock explained that the two day college course was during the day which took them away from the job and was £150 on top of £600 for the licence and, in her view, a lot of the subjects on the course were self-explanatory with most drivers who had been doing it for a very long time being put off as they did not need to be told how to suck eggs. She recognised the need for training, especially the basics, but suggested the cost and time required was hugely deterring drivers with probably 15/20% of licensed drivers now choosing to do deliveries instead. She explained that her company had never turned down so much work before especially on Friday and Saturday nights but they did not have the drivers available and this left the public stranded with an hour to three hour wait. She suggested, therefore, that more needed to be done to attract drivers to join the trade including looking at the training and hoops they had to go through in order to get a licence otherwise the trade would not grow. She added that the average age of drivers was in their 50's and they did not want to work weekends any more but new drivers did not want to come into the trade. In relation to electric vehicles, Ms Lock stated that this was very difficult for businesses because the cost of the vehicles was extremely high and whilst the reduced fee was welcome, it was not that much money to compensate as it was only 25%. In addition, the area did not have the infrastructure needed and no support was available

to businesses to add the infrastructure required. She explained there were only two charging points in Lowestoft and previously they had paid 35p per kilowatt on the road but now it was about 85p to £1 per kilowatt so the cost was probably now about the same as petrol. She concluded that there was no encouragement for the trade to go electric because it was too difficult and not cost effective to charge. There was no incentive to buy vehicles or licence them and they still had six monthly energy checks and paid the same costs even though the vehicles had no emissions.

The Chair invited questions for Mr Wright and Ms Lock. Councillor Gooch referred to Mr Bloom's comment that there was no framework for drivers and operators to make a complaint against abuse from members of the public and she queried if abuse was much of a disincentive for drivers. Ms Lock responded that she thought it was, adding that, although companies communicated with each other to stop certain customers from using vehicles, there was no system in place to report them other than to the Police. She gave an example from the previous week where a driver had been subjected to verbal abuse and the customer refused to pay the fare, the Police had been called but did not respond until three hours later and in the meantime the driver could not really hold them in the vehicle as that would have escalated the situation. Mr Wright commented that the number of customers who ran away without paying had increased dramatically with the Police at another Council's public meeting saying that it was not worth their time investigating as it would cost £250, so that and the shortage of drivers compounded the sector's problems.

The Chair invited questions and in response to Councillor Candy's question about what three things would encourage more drivers, Mr Wright stated that there were not really three things because more importantly there were flaws with many of the systems such as DBS was not fit for purpose for example when taking a child to school at some point during the journey they became an adult! Another example was that there was no portability so if a driver moved house they had to reapply so everything was cumbersome and needed streamlining. Mr Wright stated that he was currently writing a report for the Government which he would send to Councils. He acknowledged that Council's costs were increasing but suggested they needed to look at what they were making drivers go through and drill down to the essential things for public safety only and remove other things such as training on providing change.

Councillor Bennett queried if Uber drivers had to go through the same training. Mr Wright stated that there were 300 licensing authorities in England and Wales and every one was different because there were no common standards. He explained that apps had negated geographical boundaries so someone could get a licence elsewhere, where it was cheaper and easier, then drive across boundaries which was why in his view national standards were needed.

In response to the Chair's query, Ms Lock clarified that she had meant the Licensing Team who carried out enforcement not the Police. She added there was a lot happening on the street level which she reported but if the Licensing Enforcement Officer did not know about it or see it then nothing happened. The Cabinet Member stated that he had been concerned to learn there was only one Enforcement Officer covering the whole district and, whilst the service had to be cost neutral, he suggested the Scrutiny Committee might wish to consider recommending the number of officers be increased. He added that the current Officer did work evenings.

In response to Councillor Folley's query about the number of complaints about drivers over the last year, the Licensing Manager and Housing Lead Lawyer responded that between 1 March 2022 and 28 February 2023, the Council dealt with 211 enforcement issues which were not necessarily complaints from the public but could be things that the Enforcement Officer had discovered such as smoking in vehicles, inappropriate behaviour, language, poor driving, not wearing a badge, dirty vehicle, query regarding a fare, unfit vehicle notices and not declaring speeding notices.

The Chair invited the guests to make any closing remarks and Ms Lock summed up that:

- It would be good to see more enforcement.
- The existing Licensing Enforcement Officer was very good and helpful.
- Drivers should be engaged with more and the trust between them and the Licensing Department should be built up.
- Collecting plates should be made easier eg so much documentation was provided that it should be possible to just show ID when collecting.
- Lots of documentation was sent by post that could be emailed.
- She was happy to engage further with the Council, Committee and Licensing Team.

Mr Wright stated that it would be good to get more engagement with the trade in future as they would come up with solutions. It was important to note that whatever regulations were put on to the trade they were done for safety reasons but if they were not thought through it could end up hindering safety therefore, he suggested more ongoing dialogue with the trade.

The Cabinet Member referred to the earlier comment that drivers shopped around between authorities and stated that having common standards would stop this as he had seen a case where a driver had been refused at Ipswich and applied here but was also refused. He acknowledged that Covid had meant that a lot of drivers had switched to deliveries and left the trade. He suggested the Committee might be minded to recommend the introduction of grants to purchase electric vehicles as it had been shown elsewhere that this had resulted in the numbers increasing significantly.

In response to some of the comments made during the discussions, the Licensing Manager and Housing Lead Lawyer clarified that:

- There had been 589 licensed drivers before Covid and there were now 554, a drop of 35, however, there were currently 40 live applications so if these were all granted then there would be more drivers than before lockdown. **CLERK'S NOTE: It was clarified after the meeting that there were now 63 live applications.**
- When a vulnerable person got into a taxi they saw the badge and assumed the driver was a fit and proper person that could be trusted.
- People could pass a driving test at 17 without taking any other tests, so if drivers were not tested by the Council, the Council could not certify they drove to a good standard and this formed part of the fit and proper person test.
- Over the years, there had been several child exploitation cases elsewhere in the country involving drivers, so the purpose of the course was to ensure that did not happen at East Suffolk.

- New applicants had a 2 day course costing £160 whereas existing drivers took a half day course for £45 but this could be changed if the Licensing Committee felt it necessary.
- Customer standards were a floor not a ceiling and the Council wanted to make sure that operators operated to that minimum standard.
- Applications typically took 3-6 weeks.
- Uber drivers were no different to anyone else and if they applied to East Suffolk they would be held to exactly the same standards as any other private hire operator. It was not for the Licensing Authority to dictate the market as it was up to the customers to decide who they used but it was the Council's job to ensure that drivers and operators were fit and proper persons.
- It would be really helpful to have an additional Licensing Enforcement Officer as East Suffolk was a large district with currently only one Enforcement Officer.
- The Licensing Authority regulated drivers not passengers and there might be data protection issues for collecting abusive customer names, however, this was a policy issue for the Licensing Committee. Any assault or abuse by a passenger should be reported to the Police.
- The increase in conditions was mainly due to the standards introduced during the pandemic which was a matter for the Government and Members.

The Senior Licensing Officer clarified that the standards had been introduced in July 2020 and the Licensing Committee had approved most of the recommendations because the Government had said there needed to be a really good reason for not doing so, which was why the Council now had the conditions it had. She added that the Team had also attended the course and, whilst she acknowledged it could perhaps be shortened, it had been very good.

The Chair invited any last questions from the Committee. In response to questions from Councillors Gooch and Grey, Ms Lock acknowledged that her company had had to refuse a lot of work including County Council work. She added that workloads fluctuated but she estimated that her company needed another 20/30 drivers. She suggested that the Licensing Authority should help drivers get licences quicker and incentivise them to come back to the trade because work was available. Mr Wright pointed out that the demand would only increase as the population aged and more vulnerable people came out of care. He added that it was pointless putting drivers of those with special needs through the same training if they were on a fixed route for example and doing so increased the costs to the County Councils which meant they provided less of a service.

Councillors Bennett and Noble asked what the most helpful thing this Council could do to attract more drivers to the industry, especially young ones and both Ms Lock and Mr Wright suggested the required training be reviewed as a lot of it was not relevant and two days was too much.

In response to queries from Councillor Gooch and Grey, the Licensing Manager and Housing Lead Lawyer stated that the course was designed by a safeguarding expert and was used by all the districts in Suffolk. The fee was charged by the course operator not the Council and if the Licensing Committee wished, they could choose to offer grants to help with the costs.

Following a query from the Chair, Ms Lock confirmed that her cabs had a panic button which would override the operating systems until cleared by the driver or the operator once they were satisfied the driver was okay.

Councillor Ewart, Assistant Cabinet Member, stated that best practice should be followed but the Council could develop industry pride and perhaps champion electric vehicles to attract a new cohort of drivers. She added that it might be worthwhile teaching people how to drive because it was so expensive.

There being no further questions, the Chair opened up debate and the Committee suggested recommendations relating to streamlining processes, particularly the 2 day training course; investigating ways to alleviate the financial burden for applicants; and increasing enforcement capacity.

The Democratic Services Officer clarified that any recommendations would need to be made to the Licensing Committee rather than Cabinet.

On the proposition of Councillor Grey, seconded by Councillor Bennett, it was

RESOLVED

That the Scrutiny Committee finalise the recommendations outside of the meeting via email.

CLERK'S NOTE: The Scrutiny Committee subsequently agreed the following resolution by email:

1. That the Licensing Committee be recommended to approve an increase in the number of Enforcement Officers to ensure adequate provision across the whole district.
2. That the Licensing Committee consider the following matters raised during the Scrutiny Committee's review into the Hackney Carriage and Private Hire Licence Regime:
 - Introducing ways to attract more drivers to the industry, including streamlining processes.
 - Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc.
 - Review, and consider lobbying the Government and LGA in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System.

The Committee adjourned for a comfort break from 8.20pm to 8.30pm when the meeting was reconvened.

5 Cabinet Member Scrutiny Session - The Leader of the Council

The Leader of the Council stated that she was pleased to be before the Scrutiny Committee and outlined that her approach was open, transparent and honest. She

added that she did not micro manage and wanted her Cabinet Members to flourish and make the roles their own. She explained that the Cabinet Members had been chosen for their skills or knowledge of the portfolio, and that training and Officer support would help them.

In terms of her own portfolio, the Leader stated that it was interesting because it was not specifically themed. She was the Chair of the Community Partnership Board and had chosen the 8 Partnership Chairs from across all political groups as it was about the people who lived in their communities. Each Partnership had chosen their Vice-Chairs and feedback so far was that they were all doing a brilliant job.

The Leader stated that she was also Chair of the Member Development Steering Group and asked Members to engage with Officers when the skills audit was undertaken. She explained that it was really useful to know Members' skills and knowledge when making appointments and to involve them in projects etc, irrespective of political groups. She stressed that it was important for Members to do as much training as they could, even those who had been a Councillor for many years. She highlighted the LGA training, suggesting that Members embrace the opportunities, especially as it was all free. She referred to the LGA's Leadership Programme including the Next Generation training, and added that these were an excellent opportunity to build teams cross party as well as within Groups. Members were reminded that recordings of internal training sessions were available to watch later if they missed the live session.

Communications was another responsibility and the Leader stressed that language was really important and urged Members to use positive language. She added that internal communication was important, acknowledging that historically there had been issues about Members not knowing things were happening in their wards, but stressed that going forwards it was about communicating and understanding what was going on and talking to each other. In addition, making sure there was good communication outside of the Council and into the community to ensure that residents were brought along with the Council's journey.

The Leader reported that she was also responsible for Parish Liaison and had attended various Parishes. She had met with Lowestoft Town Council several times and was building a good relationship with them. She had also been out with East Suffolk Family Alliance in the Trimleys, visited Carlton Marshes and Lowestoft Sixth Form College which had been amazing. She stressed the need to get out into communities and engage with residents as they were the ones who had voted Councillors into their role. She referred to the great events taking place in East Suffolk, including the Tour of Britain and the power boat racing in Oulton Broad which needed to be embraced and supported. The Leader stressed the need to get out of Council buildings more and hold meetings in locations such as the College, CEFAS etc.

With regard to the Council's strategic direction, the Leader gave a brief outline of Our Direction 2028 which was currently out to consultation. She stressed that East Suffolk would be sticking to the targets that had been set despite the Prime Minister's earlier announcement pushing back net zero targets.

In response to Members' questions, the Leader responded that:

- The Council were installing EV chargers but the challenge was finding the land to put them on and funding, although the County Council could be asked if grants were still available.
- There were mixed views on reverting to a Committee system. She felt it would not be right to consider it this early on in a new administration, especially as there were a lot of priorities that needed to be delivered, however, there were still opportunities for more inclusive working with a Cabinet system eg she had resurrected the Leader's Briefings which were open to all Councillors. The Scrutiny Committee Chair stated that he had worked under both systems and felt that, as long as this Committee was efficient, then the Cabinet system was more effective.
- It was difficult to get everyone to engage and Parish Councils should not feel like they were at the bottom of the rung as they were the ones dealing with residents on the ground. She stated that she was a mediator that hoped to build bridges, bring people together and open communication channels without getting political.
- The Leader agreed to look at a plant based treaty. With regard to environmental impact, it was quite wide with Officers, Members and stakeholders involved. In relation to Sizewell, the Leader explained that she had to give everyone a safe space to air their opinions without fear of being penalised so she would take on board everyone's opinions rather than being pre-determined.
- Whilst it would not be practical to hold a Parish Forum relating to Our Direction as it needed to get published, there was nothing to stop a Parish Forum being organised similar to the Community Partnership Forum. She urged Members to encourage Parishes to submit their views on Our Direction which it was hoped would go to Full Council for approval in November/December.

6 Annual Work Programme 2023/24

RESOLVED

That the Committee's Annual Work Programme for 2023/24 be agreed.

The meeting concluded at 9.10pm.

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Chair



SCRUTINY COMMITTEE

Thursday, 19 October 2023

Subject	Review of Affordable Housing Planning Requirements
Cabinet Member	Councillor Kay Yule, Cabinet Member with responsibility for Planning and Coastal Management
Report Author(s)	<p>Ben Woolnough Planning Manager (Development Management, Major Sites and Infrastructure) ben.woolnough@eastsoffolk.gov.uk 07833 406681</p> <p>Andrea McMillan Planning Manager (Policy, Delivery and Specialist Services) andrea.mcmillan@eastsoffolk.gov.uk 01394 444567</p> <p>Adam Nicholls Principal Planner (Policy and Delivery) adam.nicholls@eastsoffolk.gov.uk 07881 005429</p>
Head of Service	<p>Philip Ridley Head of Planning and Coastal Management Philip.Ridley@eastsoffolk.gov.uk 01502 523200</p>
Director	<p>Nick Khan Strategic Director Nick.Khan@eastsoffolk.gov.uk 01502 523200</p>

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

Scrutiny Committee has requested a review of affordable housing requirements required/secured through the planning process. The 'lines of enquiry' form the basis of the report and each are responded to within the report.

Options:

None. The scope has been defined and the report provides information in relation to this.

Recommendation/s:

That Scrutiny Committee considers the contents of the report.

Corporate Impact Assessment

Governance:

No impacts.

ESC policies and strategies that directly apply to the proposal:

Relevant policies are explained in responding the lines of enquiry set out in the Scope.

Environmental:

No impacts.

Equalities and Diversity:

Not applicable – but equalities impacts have been considered in the preparation and adoption of Local Plan policies and the Affordable Housing Supplementary Planning Document.

Financial:

No impacts.

Human Resources:

No impacts.

ICT:

No impacts.

Legal:

No impacts.

Risk:

None identified.

External Consultees:

Written information from three representatives of the development sector is attached at Appendix B.

Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>
How does this proposal support the priorities selected?			
Affordable housing contributes to the overall supply of housing needed to maintain and grow a vibrant and sustainable economy, and to ensure we have the right supply of housing in the right places (P01). Delivery of affordable housing contributes towards maximising health and wellbeing in the district (P08) and to addressing deprivation (P07).			

Background and Justification for Recommendation

1 Background facts	
1.1	The scope of the Scrutiny Committee’s queries in respect of affordable housing planning requirements are addressed by reference to each specific question throughout this report. This report considers each of the questions and presents information in respect of these for Scrutiny Committee to consider. This report precedes a report that will be brought to Scrutiny Committee in November led by the Housing Service on ‘Review of the Provision of Social Housing in East Suffolk’; the two should be viewed collectively in demonstrating the Council’s role in the delivery and provision of affordable housing.
1.2	The Council adopted the East Suffolk Affordable Housing Supplementary Planning Document in May 2022 (attached at Appendix B), to provide additional guidance on implementing the affordable housing Local Plan policies. This contains much of the information related to the scope of this report and will be referred to throughout the report. The SPD is a material consideration in determining applications for planning permission.
1.3	Members received training on affordable housing and viability on 2 nd October 2023. The content of the training covered much of the scope of this report and it is recommended that the recording of this training is watched by all members of the Scrutiny Committee to accompany this report.
1.4	Written information on the topic has been received from three representatives of the development sector and is incorporated in Appendix B.

2 Current position	
	What legislation and national guidance relates to this?
2.1	<p>The current (September 2023 version) National Planning Policy Framework (NPPF) sets out national planning policies on affordable housing. Chapter 5 of the NPPF ‘Delivering a Sufficient Supply of Homes’ includes policy on how Local Plans are expected to identify needs for affordable housing and incorporate planning policies to deliver affordable housing. The Affordable Housing SPD contains references to relevant parts of the NPPF.</p> <p>In terms of affordable housing, key parts of the NPPF are:</p> <p><u>Paragraph 62</u> – sets out that the needs for affordable housing should be assessed and reflected in planning policies (amongst needs for other types of housing).</p> <p><u>Paragraph 63</u> – sets out that planning policies should specify the type of affordable housing required and expect it to be met on-site unless off-site provision or a financial contribution in lieu can be robustly justified and that this contributes to the objective of creating mixed and balanced communities.</p> <p><u>Paragraph 64</u> – sets out that provision of affordable housing should not be sought for residential developments that are not major developments (other than in</p>

	<p>designated rural areas where policies may set out a lower threshold of 5 units or fewer).</p> <p>The NPPF sets out the tests of soundness against which Local Plans are examined (paragraph 35) including that Local Plans are “justified” and “effective”. In this regard, viability assessment is an important part of Local Plan preparation. Paragraph 58 of the NPPF sets out that where up-to-date policies have set out the contributions expected from development (which would include affordable housing) planning applications that comply with them should be assumed to be viable, and that it will be up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the planning application stage.</p>
2.2	<p>The Suffolk Coastal Local Plan was prepared and examined against the 2018 iteration of the NPPF (which was largely similar to the current 2023 NPPF in terms of setting Local Plan policies for affordable housing) and the Waveney Local Plan was prepared and examined against the original 2012 NPPF. Any nuances or differences resulting are identified in this report.</p>
2.3	<p>The NPPF is supported by the Planning Practice Guidance (PPG), which sets out further guidance on a number of topics including on ‘Housing needs of different groups’, ‘Build to Rent’ and ‘First Homes’, which include guidance on affordable housing, and on Viability. The Affordable Housing SPD contains reference to relevant guidance contained in the PPG.</p>
2.4	<p>In terms of securing affordable housing through planning permissions, Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (as amended) sets out that planning obligations (which is how affordable housing is secured – it cannot usually be via a planning condition) must only be sought where they meet all of the following tests:</p> <ul style="list-style-type: none"> a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.
	<p>What are the requirements that developers must provide (including the provision of affordable housing) and in what situation?</p>
2.5	<p>The Council’s two Local Plans, Suffolk Coastal Local Plan (2020) and Waveney Local Plan (2019) set out numerous policies which include requirements that developments are expected to provide. This ranges from elements such as on site infrastructure such as schools and community centres, off site infrastructure funding, open space, to provision of access, to infrastructure to facilitate cycling and walking. In addition, most housing developments pay Community Infrastructure Levy (CIL) which is used to deliver the essential infrastructure for developments. One key requirement of policy is the provision of affordable housing which is the focus of this report. Full details of all of the policy expectations on development are set out in the Local Plans. ‘Made’ Neighbourhood Plans, which are also part of the development plan along with the Local Plans, also contain local policies.</p>
2.6	<p>Affordable housing is delivered through planning policies primarily through one of two ways:</p>

	<p>1) through policies that require a proportion of affordable housing as part of certain market housing developments and</p> <p>2) through policies that provide support for affordable housing schemes to come forward in certain circumstances as an exception to planning policies for housing (known as ‘exception sites’).</p> <p>Affordable housing is also delivered on schemes brought forward for entirely affordable housing (including – but not limited to – exception sites), or for a proportion larger than policy thresholds, usually by Registered Providers.</p>												
2.7	<p>East Suffolk Council has two Local Plans, the Suffolk Coastal Local Plan (adopted in September 2020) and the Waveney Local Plan (adopted in March 2019). The Local Plans form part of the development plan, along with any made Neighbourhood Plans and the Minerals and Waste plans, and under section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions should be taken in accordance with the development plan unless material considerations indicate otherwise.</p>												
2.8	<p>The key Local Plan policies related to affordable housing are:</p> <p>The Suffolk Coastal Local Plan -</p> <p>SCLP 5.10: Affordable Housing on Residential Developments</p> <p>SCLP5.11: Affordable Housing on Exception Sites.</p> <p>The Waveney Local Plan -</p> <p>WLP8.2: Affordable Housing</p> <p>WLP8.6: Affordable Housing in the Countryside.</p>												
2.9	<p>The Affordable Housing Supplementary Planning Document (May 2022) (Appendix A of this report) contains guidance to assist in the implementation of the policies contained in East Suffolk Council’s Local Plans regarding affordable housing. The Local Plan requirements in relation to when and how much affordable housing should be provided are summarised on page 13 of the SPD, and set out in the table below:</p> <table border="1" data-bbox="300 1391 1388 2051"> <thead> <tr> <th data-bbox="300 1391 571 1442"></th> <th data-bbox="571 1391 842 1442">Threshold</th> <th data-bbox="842 1391 1114 1442">Requirement</th> <th data-bbox="1114 1391 1388 1442">Tenure</th> </tr> </thead> <tbody> <tr> <td data-bbox="300 1442 571 1771">Suffolk Coastal Local Plan (SCLP5.10)</td> <td data-bbox="571 1442 842 1771">10 dwellings or more and/or sites of 0.5ha or more</td> <td data-bbox="842 1442 1114 1771">1 in 3 – applies to whole plan area. No affordable housing is required on 100% flatted developments on brownfield sites.</td> <td data-bbox="1114 1442 1388 1771">50% affordable rent / social rent 25% shared ownership 25% discounted home ownership</td> </tr> <tr> <td data-bbox="300 1771 571 2051">Waveney Local Plan (WLP8.2)</td> <td data-bbox="571 1771 842 2051">11 dwellings or more</td> <td data-bbox="842 1771 1114 2051">20% in Lowestoft and Kessingland (excluding Corton) 40% in Southwold and Reydon 30% elsewhere</td> <td data-bbox="1114 1771 1388 2051">50% affordable rent</td> </tr> </tbody> </table>		Threshold	Requirement	Tenure	Suffolk Coastal Local Plan (SCLP5.10)	10 dwellings or more and/or sites of 0.5ha or more	1 in 3 – applies to whole plan area. No affordable housing is required on 100% flatted developments on brownfield sites.	50% affordable rent / social rent 25% shared ownership 25% discounted home ownership	Waveney Local Plan (WLP8.2)	11 dwellings or more	20% in Lowestoft and Kessingland (excluding Corton) 40% in Southwold and Reydon 30% elsewhere	50% affordable rent
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	<p>In the Suffolk Coastal Local Plan area, the exception to the requirement is on brownfield flatted sites, where through the Local Plan Examination the Inspector concluded that for viability reasons affordable housing should not be required.</p> <p>Residential developments below the thresholds cannot be required to provide affordable housing.</p> <p>The differences in thresholds between Suffolk Coastal and Waveney are explained in paragraphs 2.15 – 2.17 below.</p>
2.10	<p>The artificial sub-division of a site to try to evade affordable housing requirements is not acceptable. As an example, if part of a greenfield site with a total capacity for about 18 dwellings comes forward in the Suffolk Coastal area as a nine-dwelling scheme (without good reason), with the likelihood of a second phase of nine coming forwards later, the full affordable housing requirement will be sought (i.e. three units, with six market units). The SPD sets out that sites should not be divided in this way (see paragraph 7.48).</p>
2.11	<p>The needs for affordable housing, and for different tenures, was assessed through the Strategic Housing Market Assessment (SHMA) Part 2 which underpins the affordable housing policies contained in the Local Plans. For the Suffolk Coastal Local Plan area, reference should also be made to the SHMA Part 2 Partial Update of January 2019, which reflected the change in overall housing requirement during preparation of the Plan. The tenure mix conclusions of the SHMA, set out in the conclusions in Chapter 7 of the respective SHMA documents, have informed the affordable housing tenure split in the Local Plan policies.</p>
2.12	<p>The Strategic Housing Market Assessment was prepared in accordance with guidance contained in the NPPF and PPG in place at the time. The Strategic Housing Market Assessment identified that in the Suffolk Coastal Local Plan area there is a net need for affordable housing for 94 households per year and in the Waveney Local Plan area a net need for affordable housing for 208 households per year, over the Plan period to 2036. For the Waveney Local Plan, given the level of need, consideration was given to whether higher requirements for affordable housing could be achieved. Paragraph 8.11 of the Waveney Local Plan explains that this need of 208 amounts to 55% of the total annual need for housing and that the Whole Plan Viability Assessment demonstrates that this level of affordable housing would make housing developments financially unviable. The Whole Plan Viability Assessment has informed the requirements set out in the table in paragraph 2.9 above, as explained in paragraph 8.14 of the Waveney Local Plan. The Waveney Local Plan over-allocates sites for housing development to specifically help to address the need for affordable housing.</p>
2.13	<p>The Local Plans were subject to a rigorous process of preparation, including three rounds of public consultation each prior to submission for Examination (plus a further round of consultation on ‘main modifications’ during the Examination). The independent Inspectors who examined the Local Plans considered the evidence, representations made to the Plan and national policy and guidance in reaching their conclusions on the Plans. The Suffolk Coastal Local Plan Inspector’s Report shows the Inspector’s consideration of Policy SCLP5.10 (paragraphs 91 – 94 in particular). The Waveney Local Plan Inspector’s Report also shows the careful consideration given to provision for affordable housing and policy WLP8.2 by the Inspector (paragraphs 25 and 147 – 149 in particular).</p>

	In planning terms, what is the definition of “affordable housing”?
2.14	Affordable housing is defined in the glossary (Annex 2) of the NPPF and can broadly be split into two groups – affordable housing for rent and affordable housing for purchase. First Homes were also introduced in 2021 (through the First Homes PPG) as a new tenure of Affordable Housing; however, the Annex to the NPPF has not yet been updated to reflect this. Chapter 2 of the Affordable Housing SPD explains the types of Affordable Housing in detail, including ‘affordable rent and social rent’, ‘shared ownership’, ‘shared equity’, ‘discount home ownership’ ‘starter homes’, ‘rent to buy’ and ‘First Homes’.
	How does the Council determine the thresholds for requiring affordable housing?
2.15	The thresholds were determined through the Local Plans, that were prepared to be in compliance with the policy in the NPPF in place at the time.
2.16	The Waveney Local Plan was prepared and examined against the 2012 NPPF. Whilst the 2012 NPPF did not itself include thresholds, a Written Ministerial Statement was published in 2014 which set out that for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. A lower threshold of 5 dwellings or fewer could be applied in designated rural areas. This was subsequently incorporated into Planning Practice Guidance. Paragraph 8.13 of the Waveney Local Plan explains this position.
2.17	The Suffolk Coastal Local Plan was prepared and examined under the 2018 NPPF which set out that affordable housing can be required on “major” developments (paragraph 63 of the 2018 NPPF was the same as paragraph 64 of the 2023 NPPF - see paragraph 2.1 above). Major developments are defined in the NPPF, for housing, as development of 10 or more homes or where the site area is 0.5 hectares or more. There is therefore a difference between the thresholds in the two Local Plans.
2.18	The Local Plans were subject to viability testing and to consultation during their preparation. The Local Plans were subject to independent examination, under which the respective Inspectors assessed whether the plans were ‘consistent with national policy’ (amongst other ‘tests of soundness’). As explained in paragraph 2.13 above, the Inspector for each Local Plan carefully considered the affordable housing approach and policies in the Local Plans in reaching their conclusions on the plans.
	Are thresholds different in similar and neighbouring authorities (provide a chart)?
2.19	<p>Thresholds in other authorities’ Plans will be largely dependent on the age of the relevant policies and the national policy in place at the time.</p> <p>The local planning authorities adjoining East Suffolk are: Ipswich Borough Council, Babergh District Council, Mid Suffolk District Council, South Norfolk District Council, Great Yarmouth Borough Council and the Broads Authority. Some of these authorities also show similar characteristics with East Suffolk, noting that Babergh and Mid Suffolk were classified as similar to the former Suffolk Coastal area in the ONS area classifications.</p>

The information below has been taken from the latest adopted Local Plans for those local authorities; however, it needs to be treated with a degree of caution noting the age of some of the plans which will have preceded current national policy which will now inform what is being sought on developments. Policies in emerging Local Plans are also included in the table where they are well advanced in preparation.

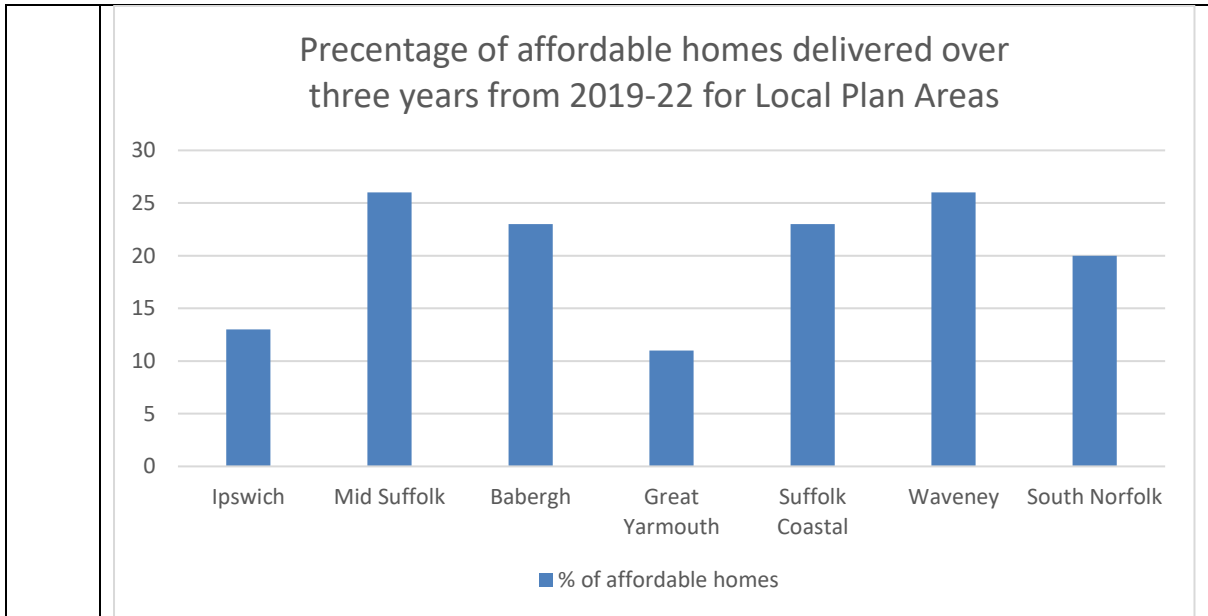
Authority/Local Plan	Threshold	Requirement	Source
Babergh and Mid Suffolk emerging Joint Local Plan (Inspector's Report received September 2023, Plan anticipated to be adopted in late November 2023)	Sites of 10 or more dwellings or 0.5ha or more	35% on greenfield sites; 25% on brownfield sites	https://www.midsuffolk.gov.uk/documents/d/asset-library-54706/k01-bmsdc-jlp-final-report-and-schedule (policy SP02)
Mid Suffolk Local Plan First Alteration (July 2006) (will be superseded by policy SP02 on adoption of the new Joint Local Plan, above)	Sites of 15 dwellings or more, or sites of 0.5 hectares in Stowmarket and Needham Market, and sites of 5 dwellings for more, or sites of 0.17 hectares in the remainder of Mid Suffolk <i>(note - national policy changes update what is asked for)</i>	Up to 35%	https://www.midsuffolk.gov.uk/documents/d/mid-suffolk/msdc-affordable-altered-h4-policy-pdf (policy H4)
Babergh Core Strategy (2014) (will be superseded by policies SP02 and LP07 on adoption of the new Joint Local Plan, above)	All residential development <i>(note - national policy changes update what is asked for)</i>	35%	https://www.babergh.gov.uk/documents/d/babergh/core-strategy-and-policies-final-feb-2014 (policy CS19)
Ipswich Borough Local Plan (2022)	15 dwellings or more or sites of 0.5ha or more (outside of Ipswich Garden Suburb and northern end of Humber Doucy Lane).	15%	www.ipswich.gov.uk/sites/www.ipswich.gov.uk/files/core_strategy_and_policies_development_erratum_with_plans_0.pdf (policy CS12)

	Does not apply to development of 65% or more flats on brownfield sites.		
	Allocated site at northern end of Humber Doucy Lane	30%	www.ipswich.gov.uk/sites/www.ipswich.gov.uk/files/core_strategy_and_policies_development_erratum_with_plans_0.pdf (policy ISPA4)
	Ipswich Garden Suburb	31%	www.ipswich.gov.uk/sites/www.ipswich.gov.uk/files/core_strategy_and_policies_development_erratum_with_plans_0.pdf (policy CS10)
Great Yarmouth Local Plan Part 2 (2021)	Caister-on-Sea, Gorleston, Great Yarmouth North and Northern Rural – 10 dwellings or site area of 0.5ha or more	20%	www.great-yarmouth.gov.uk/media/6579/Adopted-Local-Plan-Part-2-2021/pdf/Adopted-Local-Plan-Part-2-2021.pdf?m=637746476248570000 (policy UCS4)
	Bradwell, Great Yarmouth South and South Quay, Gorleston West and South West Rural – 10 dwellings or site area of 0.5ha or more	10%	www.great-yarmouth.gov.uk/media/6579/Adopted-Local-Plan-Part-2-2021/pdf/Adopted-Local-Plan-Part-2-2021.pdf?m=637746476248570000 (policy UCS4)
	Great Yarmouth Town Centre – 15 dwellings or site area of 0.5ha or more	10%	www.great-yarmouth.gov.uk/media/6579/Adopted-Local-Plan-Part-2-2021/pdf/Adopted-Local-Plan-Part-2-2021.pdf?m=637746476248570000 (policy UCS4)
South Norfolk (Joint Core Strategy)	5-9 dwellings <i>(note: this has not</i>	20%	www.gnlp.org.uk/sites/gnlp/files/2021-

for Broadland, Norwich and South Norfolk 2011)	<i>been applied since November 2014, when a national threshold of 10 dwellings was introduced)</i>		01/JCS-adopted-doc-2014.pdf (policy 4)
	10-15 dwellings	30%	www.gnlp.org.uk/sites/gnlp/files/2021-01/JCS-adopted-doc-2014.pdf (policy 4)
	16+ dwellings	33%	www.gnlp.org.uk/sites/gnlp/files/2021-01/JCS-adopted-doc-2014.pdf (policy 4)
South Norfolk (Greater Norwich Local Plan) (Submission version 2021))	10+ dwellings	At least 33% (at least 28% in Norwich City)	www.gnlp.org.uk/sites/gnlp/files/2021-10/Reg%2019%20final%20formatted_0.pdf (policy 5)
Broads Local Plan (2019)	Developments of 10 or more dwellings to provide affordable housing in accordance with the policies of the relevant district Council. Off site contributions sought for schemes of 6-9 dwellings.	As per Waveney Local Plan	www.broads-authority.gov.uk/data/assets/pdf_file/0036/259596/Local-Plan-for-the-Broads.pdf (policy DM34)

Affordable housing delivered 2019/20-2021/22:

- Ipswich (116 of 913 homes affordable) = 13% affordable housing
- Mid Suffolk (517 of 1,985 homes affordable) =26% affordable housing
- Babergh (333 of 1,453 homes affordable) = 23% affordable housing
- Great Yarmouth (135 of 1,180 homes affordable) = 11% affordable housing
- Suffolk Coastal Local Plan area (401 of 1,670 homes affordable) = 23% affordable housing
- Waveney Local Plan area (178 of 680 homes affordable) = 26% affordable housing
- South Norfolk (539 of 2,703 homes affordable) = 20% affordable housing



It should be noted that total completions will include all housing completions, including those on smaller sites where no affordable housing is required.

What are viability assessments and what is best practice guidance in relation to what should be contained in the viability assessments?

2.20 Chapter 9 of the [Affordable Housing SPD](#) sets out guidance on viability assessments at the planning application stage, emphasising that the Council will only support a reduction in affordable housing provision in exceptional circumstances and where demonstrated by a viability assessment, which the authority would need to be satisfied with. Reflecting the needs for affordable housing in the Waveney area, the Waveney Local Plan also sets out under Policy WLP8.2, that permission will only be granted for reduced affordable housing provision on sites which are necessary to the overall supply of housing in the district, unless the scheme has wider sustainability benefits. This essentially means that sites which are not allocated for development or do not make up part of the five-year supply of housing will not be supported unless they can provide a policy compliant amount of affordable housing, regardless of viability issues – unless there are overriding sustainability benefits that the Council consider would justify supporting. Detailed guidance on viability assessments is included in Appendix G of the Suffolk Coastal Local Plan and Appendix 5 of the Waveney Local Plan – these are not repeated in the SPD.

How do we work with developers who feel that a development would not be viable if affordable housing was required? How often does this situation tend to happen?

2.21 As mentioned in paragraph 2.20 above, there is detailed guidance on the viability appraisal process in the two Local Plans, which must be followed. It is not that uncommon for applicants (or potential applicants) to try to claim that sites are not viable for the full complement of affordable housing, especially given that there has been a significant increase in development costs over the past few years, (driven largely by the material cost rises and effects of Covid and the Ukraine war). However, officers will always scrutinise such claims carefully and, in at least some cases, not all assumptions are found to be fully justified or evidenced. Where

	<p>agreement cannot be reached on the conclusions of the applicant’s Viability Appraisal, then the Council will, at the applicant’s cost, commission an independent review by an external professional, with a revised Viability Appraisal normally produced.</p> <p>In certain circumstances, where it is accepted there is a genuine viability case, then a lower proportion of affordable housing and/or a different tenure mix of affordable housing, will be agreed, as allowed for in the two Local Plan Affordable Housing policies. Where this is agreed, an “overage” clause must be included in the S106 planning obligation, so that if sales values/profits increase later on (beyond projected values), thereby improving the viability, the “surplus” will be recouped by the Council (up to the level that would originally have been secured had a full complement of affordable housing been achieved originally).</p> <p>In the past two years there have been eight planning applications which have sought to reduce or remove affordable housing on viability grounds. In four of these a reduction or complete loss was agreed, four are under consideration.</p>
	<p>How does Planning encourage developers to provide more affordable housing than just the minimum requirements?</p>
<p>2.22</p>	<p>As affordable housing is a planning policy requirement with a fixed percentage to achieve, there is no planning justification for the Local Planning Authority to ask for any affordable housing over and above the policy requirement. Affordable housing is usually secured as an obligation in a Section 106 Agreement. In securing a Section 106 obligation there are three legal tests to apply. Any obligation must be:</p> <ul style="list-style-type: none"> a. necessary to make the development acceptable in planning terms b. directly related to the development; and c. fairly and reasonably related in scale and kind to the development. <p>If the policy seeks 30% affordable housing, then a Section 106 obligation for e.g. 40% affordable housing would fail tests a) and b) above. An over-provision which is also relied upon as a material consideration in a planning application therefore needs to be approached carefully to avoid being of excessive influence on decision making, which could result in a decision being unlawful.</p> <p>Therefore, when a development is seeking to deliver more than the policy amount of affordable housing, it is usually the case that the ‘extra’ affordable housing is not secured by the Section 106 Agreement. It becomes a voluntary proposal from the applicant and, in turn, the benefit of that extra affordable housing may not be a material planning consideration in the determination of the planning application.</p> <p>The exception to this is where the development is an affordable housing ‘Exception Site’, where the policy allows for development where housing would otherwise not be permitted (outside of a Settlement Boundary) and the policy justifies the development on the basis of 100% (or the majority) of the development being affordable housing.</p>

	Therefore, as East Suffolk has up-to-date Local Plan policies to secure affordable housing, officers should not and do not ask for developers to deliver more than the policy-compliant level of affordable housing. Asking for such an over-provision might have consequences in respect of other policy requirements such as self-build housing, quality of design and open space provision.
	Do we ever incentivise developers to meet our affordable housing policy requirements e.g. a fast track scheme?
2.23	No, we do not. We have to treat all applications equally in terms of the service provided and we have no policy to allow for ‘fast-tracking’ of certain applications. Applications for even 100% affordable housing have to pay the same planning application fee and require essentially the same planning considerations, supporting documents and determination timeframe as any other development. As the expectation is that affordable housing policy requirements will be met, unless it can be satisfactorily demonstrated that this is not viable, there is no role for providing incentives to meet these requirements. If a site cannot viably deliver the policy compliant affordable housing, fast tracking a planning application will not alter this position.
	How and when do we engage with local developers? Do we hold regular forums to understand their needs and for us to outline our priorities such as the provision of affordable housing?
2.24	Developers and landowners were engaged through the preparation of both Local Plans, including through three rounds of consultation prior to Submission, and a further consultation on ‘main modifications’ during the Examinations. Developers (including land owners, agents etc) were also engaged in the preparation of the Strategic Housing Market Assessment (SHMA) in relation to the methodology for calculating affordable needs (as detailed in Appendix A1 of the SHMA).
2.25	During the preparation of the Affordable Housing SPD, in addition to the two rounds of consultation, two (virtual) round table events were held with developer representatives in relation to the Section 106 model heads of terms that are incorporated into the SPD (Appendix 2). Details of this engagement is set out in the Consultation Statement that is published alongside the SPD. This engagement was important in ensuring that guidance is informed by a detailed understanding of the development sector, with the aim of providing guidance that is appropriately applied by all.
2.26	We have in the past held regular Developer Forums and have recently re-established these. This provides an opportunity to directly engage on implementation of our Local Plan policies and guidance (not just in relation to affordable housing).
2.27	The Council encourages developers to seek pre-application advice and this is also encouraged by the NPPF. In doing so, this often presents an opportunity to inform the housing mix of development proposals, including the mix of affordable properties influenced by information on local housing needs. Pre-application advice in respect of development design can ensure that a greater quality of affordable housing is achieved, particularly in respect of its location within developments and its design, which should be ‘tenure blind’ (meaning that it is indistinguishable from open market housing). The Council also encourages pre-application engagement with communities and the Statement of Community

	Involvement advises in this respect Statement-of-Community-Involvement.pdf (eastsuffolk.gov.uk) . This can ensure that communities are familiar with proposals early and so that the benefits of the affordable housing can be communicated.
	Why do developers want to commute instead of providing affordable housing?
2.28	<p>Chapter 5 of the Affordable Housing SPD explains ‘Financial Contributions’, generally known as ‘Commuted Sums’. It explains the circumstances where a commuted sum maybe accepted in place of on-site affordable housing. When collecting commuted sums, these are calculated on a per dwelling basis and the amounts are published annually on the website and vary depending on the property values of the area East-Suffolk-Affordable-Housing-Commuted-Payment-Schedule.pdf (eastsuffolk.gov.uk). Any commuted sum is secured by a planning obligation in a Section 106 agreement. Usually that contribution will have to be spent within 10 years of receipt, or it is returned to the developer.</p> <p>Generally, developers do not want to pay commuted sums instead of providing affordable housing and they are not encouraged to do this by the Council. In many major sites, the early investment from Registered Providers through the purchase of Section 106 affordable properties is valuable to developers, compared instead with a significant early financial contribution as an added cost at an early stage. However, some circumstances – such as flatted development mixed with open market housing or a very small affordable provision (e.g. two units) – might dictate that interest in the affordable housing by Registered Providers to take on that affordable housing is very low or even non-existent (due to significant management difficulties and therefore costs).</p> <p>Commuted sums in place of affordable housing are therefore not presently very common in East Suffolk, with the only normal exception being the collection of commuted sums for partial dwelling calculations. This is where the affordable housing requirement of a development does not calculate as a full number so for example a development of 12 dwellings requiring 30% affordable housing would result in 3.6 dwellings. The policy is to secure a commuted sum for the 0.6 of a dwelling and 3 on site dwellings, rather than rounding the total up or down. The SPD explains this.</p>
	When and with whom is it negotiated if they want to commute? Are Councillors involved or informed?
2.29	<p>If it is determined within an application that a commuted sum is appropriate, then this is established during the planning application process. This will be through consultation with the Housing team and it may have been influenced through specialist expert development viability advice, usually through an external consultant. The affordable housing mix which would be required as an on-site provision would guide an equivalent calculation based on this annually updated information on commuted sum rates www.eastsuffolk.gov.uk/assets/Planning/Section-106/East-Suffolk-Affordable-Housing-Commuted-Payment-Schedule.pdf.</p> <p>In some cases, a development viability process may reach a point of disagreement over the viability of a development between the Council (via an expert consultant) and the applicant. There have been instances where a judgement needs to be</p>

	<p>made on whether the strength of disagreement warrants refusal of an application (or the maintenance of a reason for refusal in an appeal). If there is a risk that a refusal could result in losing an appeal, with a risk of costs being awarded against the Council and potential no affordable contribution at all, then negotiation may influence a conclusion. This may include settling the viability disagreement over the amount of on-site affordable housing by instead agreeing to a commuted sum secured by a planning obligation in a Section 106 agreement. That commuted sum would be established based on a level of viability which may be established as potentially remaining in the development. For example, if it is agreed that the development can achieve a surplus (after profit) of £100,000, then that is the sum collected. Alternatively, the applicant may settle the disagreement through committing to a commuted sum to the equivalent value of X no. affordable homes and the amount calculated accordingly.</p> <p>There have been two cases of this in recent years. Both involved retirement/older living developments being considered at the same time in Halesworth, securing a total of £870,000. One of those applications went to appeal. In both applications it was agreed that the policy amount of affordable housing could not be secured but it was negotiated through evidence that there was some viability surplus which could enable a commuted sum. Considerable officer and consultant time went into establishing that position.</p>
	<p>Can we say no - that they must provide the housing? If so, does it have to be within a policy or can it be determined on an individual basis dependent on local circumstances?</p>
2.30	<p>The policies in the Local Plans set out that the Council will only support a reduction in affordable housing provision in exceptional circumstances and where demonstrated by a viability assessment (see paragraph 2.18 above).</p> <p>The Council can only require affordable housing provision in accordance with the thresholds and amounts set out in policies SCLP5.10 and WLP8.2 (see paragraph 2.8 above). It is important that such requirements are set in policies, not only to accord with the policy in the NPPF (see paragraph 2.1) but also to ensure that developers are aware of requirements up front as this will affect viability considerations from the outset. The affordable housing policies also informed the recent preparation (and, from 1st August 2023, adoption) of the East Suffolk CIL Charging Schedule, enabling consideration to be given to the viable amount of CIL in the knowledge of affordable housing requirements in any given location throughout the district.</p>
	<p>What happens to the sums of money if commuted?</p>
2.31	<p>Historically commuted sums were collected across both Suffolk Coastal and Waveney Districts to be spent in a small geographical area. In some cases, the S106 Agreement collecting the sum has restricted the spending to within the same parish or town. In other cases it has been a wider area extending to a whole ward or multiple wards. Others have extended it to the whole of the former District areas.</p> <p>This has created some past and current difficulties in being able to spend commuted sums within the stipulated geographical area (generally, the smaller</p>

the area, the greater the difficulty). Often the biggest challenge is finding and acquiring land to spend the sum. If the sum also isn't large enough, then it would depend upon combining it with other sums. That process can be a significant burden on the Council without significant housing gain.

Normal practice now is to collect commuted sums which can be spent across the whole of East Suffolk. This means that collected sums can be pooled and spent on larger projects where the Council already has development land or planned affordable housing projects. Recently the Council has committed £540k of commuted sums collected from past developments consented in 2013 and 2015 to the Deben Fields development in Felixstowe.

The Council can also transfer commuted sums to Registered Providers for their own affordable housing projects. In 2022 The Council transferred £60k to Orwell Housing towards an affordable development in Parham.

Committed sums can only be spent on the creation of new and additional affordable housing and they usually have to be spent within 10 years of receipt or are returned to the developer. They should not be spent on purchasing affordable housing on another site which is already secured by a section 106 – e.g. the Council buys a pair of affordable homes being delivered by another developer as part of their policy requirement housing mix. The Council or RP could buy open market plots on new developments, or even existing homes with commuted sums and convert them to affordable housing – however, this is not always the best value for money as the property would be purchased at an open market price, where new affordable homes would generally sell for significantly less. This option is only used where it is not possible to purchase or build new affordable homes within the spending parameters of the S106.

How many affordable housing properties were built in East Suffolk within the last three years?

2.32 22% of all housing completed across East Suffolk between 2020/21-2022/23 is affordable housing (512 of 2,346 homes).

Data on affordable housing completions is published annually in the [Authority Monitoring Report](#) and is available to view on the Planning Policy [Open Data Portal](#).

It should be noted that total completions includes all housing completions, including those on smaller sites where no affordable housing is required.

Net Housing and Affordable housing completion figures for East Suffolk 2022/23

Indicator	Suffolk Coastal Local Plan area	Waveney Local Plan area	East Suffolk
Net additional homes completed	452	360	812

Affordable homes completed (subset of net additional homes completed)	113	42	155
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Suffolk Coastal Local Plan area housing and affordable housing completions over the plan period to date 2018/19-22/23

	2018 /19	2019 /20	2020 /21	2021 /22	2022 /23
Net additional homes completed	588	660	511	499	452
Affordable homes completed (subset of net additional homes completed)	125	197	90	114	113

24% of all housing completed between 2018-22 are affordable homes (639 of 2,710 new homes).

Waveney Local Plan area housing and affordable housing completions over the plan period to date 2014/15-22/23

	2014 /15	2015 /16	2016 /17	2017 /18	2018 /19	2019 /20	2020 /21	2021 /22	2022 /23
Net additional homes completed	136	135	264	284	297	156	201	323	360
Affordable homes completed (subset of net additional homes completed)	24	13	88	120	89	25	42	111	42

26% of all housing completed between 2014-22 were affordable housing (554 of 2,156 new homes).

How many times were developers allowed to commute within the last three years? How does this compare to similar and neighbouring authorities?

2.33 The table below sets out each contribution agreed in lieu of on-site affordable housing in S106 Agreements completed from 2020-21 to date in East Suffolk and the reason for the contribution in each instance:

Year of S106	Planning reference	Amount	Reason
2020-21	DC/19/2513/FUL	£375,000	Development site of 11 dwellings
	DC/20/1352/FUL	£50,000	Vacant Building Credit applied and flatted development (on site not appropriate)

	DC/19/3289/OUT	TBC (outline scheme)	Proportionate contribution
2021-22	DC/20/5224/FUL	£37,785	Proportionate contribution
	DC/20/3070/FUL	£13,425	Proportionate contribution
	DC/20/1001/OUT	TBC (outline scheme)	Proportionate contribution
2022-23	DC/21/3016/FUL	£639,952 minimum	Assisted living development and viability (subject to further viability review to determine if additional contribution payable)
2023-24 to date	DC/22/2831/OUT	TBC (outline scheme)	Proportionate contribution
	DC/22/2831/OUT	TBC (outline scheme)	Proportionate contribution
	DC/22/0998/FUL	£85,800	Proportionate contribution
	DC/21/4501/FUL	£230,000	Viability

This information is not readily available in relation to all authorities. In Great Yarmouth, there was one instance in the last three years. Direct comparisons should be treated cautiously due to differences between authorities e.g. numbers of planning applications being determined.

The House Builders' Federation has published research relating to unspent S106 contributions for affordable housing (www.hbf.co.uk/documents/12809/HBF_Unspent_Developer_Contributions_Report_2023.pdf). This shows the local planning authorities with the largest unspent amounts as currently holding between £9.8m and £20.4m, and demonstrates that receipt of commuted sums is a practice that does take place across the country.

Can the Council impose a condition prioritising who receives the affordable housing on a development?

2.34 A planning obligation (Section 106 agreement) will accompany a planning permission involving affordable housing. The Affordable Housing SPD includes model Heads of Terms for S106 agreements, in Appendix 2, and accompanying guidance in Chapter 4. The S106 agreement must follow the Local Connections Cascade. The Local Connections Cascade, set out in Appendix 2 of the SPD, provides a mechanism for allocating affordable housing to people who have a strong local and/or work connection. Note that there is a cascade for rental affordable dwellings and a cascade for affordable dwellings for sale. This will be applied, as appropriate, to affordable housing delivered through a planning obligation. The S106 agreement does not normally prioritise the affordable housing to specific individual(s) but it can be possible to commit certain affordable housing to Key Workers.

A recent example of a Local Connections Cascade in Trimley St Martin is included below. This is typical of cascades used where a local connection to the immediate area is appropriate:

1.1 Affordable Dwellings for Rent

	<p>1.1.1 The Affordable Dwellings for Rent are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant</p> <ul style="list-style-type: none"> (a) Has continuously lived in Trimley St Martin for the preceding 5 years, OR (b) Has continuously had a principal place of work in Trimley St Martin for the preceding 5 years, OR (c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in Trimley St Martin for the preceding 5 years. <p>1.1.2 If there are no persons who qualify under paragraph 1.1.1 above the Affordable Dwelling shall be allocated to person nominated by the Council who</p> <ul style="list-style-type: none"> (a) Has continuously lived within 10 miles of the Site for the preceding 5 years, OR (b) Has continuously had a place of work within 10 miles of the Site for the preceding 5 years, OR (c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within 10 miles of the Site for the preceding 5 years. <p>1.1.3 If there are no persons who qualify under paragraph 1.1.1 and 1.1.2 above the Affordable Dwelling shall be re-advertised to the district of East Suffolk and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Dwelling shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk</p> <p>1.1.4 Where there is a mutual exchange the Registered Provider may let the Affordable Dwelling to any incoming tenant who satisfies the local connection criteria at paragraph 1.1.1 or 1.1.2 or 1.1.3 above</p> <p>1.2 Affordable Dwellings for sale</p> <p>1.2.1 On advertising the first Disposal of a Shared Ownership Dwelling or First Home the Dwelling shall be marketed for sale for the first 3 months to persons who:</p> <ul style="list-style-type: none"> (a) Have continuously lived within Trimley St Martin for the preceding 5 years, OR (b) Have continuously had a principal place of work within Trimley St Martin the preceding 5 years, OR (c) Have parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within Trimley St Martin the preceding 5 years.
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	<p>1.2.2 PROVIDED THAT if after 2 months of market, no offer has been received from persons who meet the criteria in 1.2.1, then the Dwelling may be Disposed to persons who meet the criteria in 1.2.2.</p> <p>1.2.3 On subsequent Disposals of a Shared Ownership Dwelling or First Home, it shall be marketed for sale for the first 3 months to persons who:</p> <p>(a) Have continuously lived within the District of East Suffolk for the preceding 5 years, OR</p> <p>(b) Have continuously had a principal place of work within the District of East Suffolk for the preceding 5 years, OR</p> <p>(c) Have parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within the District of East Suffolk for the preceding 5 years.</p> <p>1.2.4 If there are no purchasers who qualify under paragraph 1.2.1 or 1.2.2 above within 3 months of marketing the Affordable Dwelling it may be sold free of Local Connections restrictions.</p>
	<p>Does East Suffolk work jointly with neighbouring authorities to share skills, exchange information, commission research etc? If not, would there be any benefit in doing so?</p>
2.35	<p>The Strategic Housing Market Assessment was prepared jointly for the Ipswich Housing Market Area which comprises the former Suffolk Coastal district along with Babergh District Council, Mid Suffolk District Council and Ipswich Borough Council. Waveney is its own Housing Market Area; however, the area was also covered as part of the joint commission. This provided a common methodology for the SHMA as well as economies of scale in procuring evidence jointly and for stakeholder engagement.</p>
2.36	<p>The former Suffolk Coastal area is part of the Ipswich Strategic Planning Area (ISPA) (along with Babergh District Council, Mid Suffolk District Council and Ipswich Borough Council). Regular engagement took place through the preparation of the Local Plans of these authorities, including through the ISPA Board who developed and agreed a Statement of Common Ground to set out common approaches to strategic planning matters including housing provision. Continual regular engagement takes place between officers, not only in the ISPA area but also with neighbouring authorities to the north of the district and with authorities across Suffolk and Norfolk, and sometimes wider depending on the issues, on a range of planning matters (not just housing).</p>
	<p>Would it help to develop regional policies such as a spatial plan or a viability protocol?</p>
2.37	<p>Policies related to affordable housing provision are informed by evidence of need and viability within the local area, within the context of the policy set out in the NPPF. As set out in paragraph 2.35 above, the Strategic Housing Market Assessment was prepared jointly for the Housing Market Areas, although identified need figures at each individual local authority level that could be taken forward in respective local plans. ‘Regional’ (e.g. joint) policies on specific affordable housing requirements may not have the same ability to reflect local circumstances (for example, noting the differences set out in paragraph 2.19).</p>

	Any 'regional' protocol on viability may not add anything to the detailed guidance set out in the Local Plans and the Affordable Housing SPD on viability considerations. However, regular engagement with other local planning authorities enables any common matters to be considered, and any potential benefits of joint working to be identified.
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3 How to address current situation

3.1	The Council has up-to-date Local Plan policies and a very recent Affordable Housing SPD, which are performing effectively to achieve good levels of affordable housing delivery. Delivery of affordable housing is kept under regular review and is monitored quarterly through the Council's KPI reporting and also reported annually through the Authority Monitoring Report. Training on affordable housing and viability has recently been provided for Members (in particular of importance for Planning Committee members) to ensure good knowledge and understanding of the policy requirements and how these are implemented, and viability considerations.
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4 Reason/s for recommendation

4.1	This report provides detailed responses and provides evidence in relation to the matters raised in the Scrutiny Committee's questions.
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Appendices

Appendices:

Appendix A	Affordable Housing Supplementary Planning Document (May 2022)
Appendix B	Summary of Developer Responses to Scrutiny Review Consultation

Background reference papers:

Date	Type	Available From
2019	East Suffolk Council – Waveney Local Plan	www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/Adopted-Waveney-Local-Plan-including-Erratum.pdf
2020	East Suffolk Council – Suffolk Coastal Local Plan	www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Suffolk-Coastal-Local-Plan/Adopted-Suffolk-Coastal-Local-Plan/East-Suffolk-Council-Suffolk-Coastal-Local-Plan.pdf
2019	Waveney Local Plan Inspector's Report	www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/Inspectors-Report-and-Schedule-of-Modifications.pdf
2020	Suffolk Coastal Local Plan Inspector's Report	www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Suffolk-Coastal-Local-Plan/Suffolk-Coastal-Local-Plan-Inspectors-Report.pdf

2023	National Planning Policy Framework	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182995/NPPF Sept 23.pdf
2018	National Planning Policy Framework (Superseded)	https://webarchive.nationalarchives.gov.uk/ukgwa/20181210013535mp_/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National Planning Policy Framework web accessible version.pdf
2012	National Planning Policy Framework (Superseded)	https://webarchive.nationalarchives.gov.uk/ukgwa/20180610005038mp_/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
2021 (last updated)	Planning Practice Guidance – Housing Needs of Different Groups	www.gov.uk/guidance/housing-needs-of-different-groups
2018 (last updated)	Planning Practice Guidance – Build to Rent	www.gov.uk/guidance/build-to-rent
2021 (last updated)	Planning Practice Guidance – First Homes	www.gov.uk/guidance/first-homes
2019 (last updated)	Planning Practice Guidance – Viability	www.gov.uk/guidance/viability
2017	Ipswich and Waveney Housing Market Areas – Strategic Housing Market Assessment (Volume 2)	www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/Ipswich-and-Waveney-Housing-Market-Areas-Strategic-Housing-Market-Assessment-Part-2.pdf
2019	Ipswich and Waveney Housing Market Areas – Strategic Housing Market Assessment (Volume 2 – Partial Update)	www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/SHMA-Part-2-update-2019.pdf
2022	Affordable Housing Supplementary Planning Document – Consultation Statement	www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Supplementary-documents/Affordable-Housing/Consultation-Statement-April-2022.pdf
2021	East Suffolk Statement of Community Involvement	www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Statement-of-Community-Involvement/Statement-of-Community-Involvement.pdf
2023	East Suffolk Affordable Housing Commuted Payment Schedule	www.eastsuffolk.gov.uk/assets/Planning/Section-106/East-Suffolk-Affordable-Housing-Commuted-Payment-Schedule.pdf
2023	East Suffolk Community Infrastructure Levy Charging Schedule	www.eastsuffolk.gov.uk/planning/developer-contributions/community-infrastructure-levy/cil-rates/approved-cil-rates-for-the-east-suffolk-area/

2022	East Suffolk Authority Monitoring Report	www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/open-data/
Various	East Suffolk Planning Policy Open Data Portal	https://data-eastsuffolk.opendata.arcgis.com/
2023	Section 106 Agreements and unspent developer contributions in England and Wales (Home Builders Federation)	www.hbf.co.uk/documents/12809/HBF_Unspent_Developer_Contributions_Report_2023.pdf
2021	Ipswich Strategic Planning Area – Statement of Common Ground (Version 7)	www.ipswich.gov.uk/sites/www.ipswich.gov.uk/files/ispa_statement_of_common_ground_v7_march_2021_final_signed.pdf


AFFORDABLE HOUSING

SUPPLEMENTARY PLANNING DOCUMENT

May 2022



How to use this document

The document comprises of 12 chapters with each chapter covering a different topic. The best way to navigate through the document is by using the interactive contents. By clicking on a specific chapter in the contents, it will automatically take you to that part of the document. Moreover, if you want to go to a different section quickly, the easiest way is to click the home symbol  in the top right corner of the page. This will take you back to the contents where you can then select a different chapter. There is also a guide on the right-hand side of each page, this will show you what chapter of the document you are currently in and where that sits within the rest of the document. Throughout the document there are hyperlinks in the text that provide links to further information.

What is a Supplementary Planning Document?

Supplementary Planning Documents expand upon policy and provide further detail to support the implementation of policies in Local Plans. Whilst not a part of the development plan, they are a material consideration in the determination of planning applications. The Local Plan policies, which this SPD provides guidance on, can be viewed on the Council's website: www.eastsuffolk.gov.uk/localplan



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1. Introduction

Context

- 1.1 Whilst the cost of housing varies across East Suffolk, access to affordable housing is an issue across the district. Government statistics show that, at the time of preparation of this Supplementary Planning Document (SPD), the ratio of earnings to house prices is on average 8.39 in East Suffolk (i.e. the average house is 8.39 times the average earnings¹), meaning that for many households market housing is not an option. Affordability issues are not equal across the district and in some places house prices are considerably higher than regional and national averages. The Strategic Housing Market Assessment, which was produced as evidence to inform the district’s two Local Plans, identified a need for 94 affordable houses per year in the Suffolk Coastal Local Plan area and 208 affordable houses per year in the Waveney Local Plan area, giving a scale of the need for affordable housing.
- 1.2 The benefits of adequate affordable housing provision are not limited to being low cost to the occupants. Affordable housing also helps to provide long-term, safe and needs-appropriate housing for people whose needs are otherwise not met by housing that is available on the market.
- 1.3 Affordable housing is fundamental to support the district’s health, a strong local economy and communities with more permanent, diverse, and

cohesive communities. Addressing the district’s needs for affordable housing is therefore a corporate ambition of the Council, with both the Housing and the Planning services playing a key role in achieving higher rates of delivery and at a high build quality.

- 1.4 The Council’s [Housing Strategy \(2017-2023\)](#)² sets out the Council’s ambitions for increasing the provision of affordable housing and includes a priority of “Increasing the supply of new housing to meet a range of needs – a more proactive role for East Suffolk supporting the development of affordable homes”.
- 1.5 The [Housing Development Strategy \(2020-2024\)](#)³ sets out the Council’s approach to direct provision of affordable housing, setting out an action to develop and publish a 3-year rolling development programme with an objective of achieving at least 50 units per annum.
- 1.6 The [Housing Enabling Strategy \(2020-2025\)](#)⁴ sets out actions to proactively boost housing delivery, including affordable housing through working with communities and through the development of the Council’s own assets.
- 1.7 Affordable housing is delivered through planning policies primarily through one of two ways – through policies that require a proportion of affordable housing as part of certain market housing developments (residential developments of 10 or more dwellings or 0.5 hectares or more in the Suffolk Coastal Local Plan area and of 11 or more dwellings in the Waveney Local Plan area) and through policies that provide support for affordable housing

¹ Office for National Statistics, Median workplace earnings to median house price 2020 (published 25th March 2021)
www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian

² www.eastsuffolk.gov.uk/assets/Housing/East-Suffolk-Housing-Strategy-2017-2023/East-Suffolk-Housing-Strategy-2017-23.pdf

³ www.paperturn-view.com/uk/east-suffolk/housing-development-strategy?pid=NzU75318&v=1.1

⁴ www.eastsuffolk.gov.uk/assets/Housing/Housing-Enabling-Strategy.pdf



to come forward in certain circumstances as an exception to planning policies for housing (known as ‘exception sites’). The latter may include community led housing developments. Affordable housing is also delivered on schemes brought forward for entirely affordable housing, or for a proportion larger than policy thresholds, usually by Registered Providers.

1.8 The [East Suffolk Council – Suffolk Coastal Local Plan \(September 2020\)](#)⁵ and the [East Suffolk Council – Waveney Local Plan \(March 2019\)](#)⁶ contain policies which seek to support and facilitate the delivery of affordable housing to address the needs for affordable housing that have been identified in the evidence base underpinning the production of the two Local Plans.

1.9 The need for affordable housing was assessed through the Strategic Housing Market Assessment⁷ (part 2) which underpins the affordable housing policies contained in the Local Plans. The Strategic Housing Market Assessment identified that in the Suffolk Coastal Local Plan area there is a need for affordable housing for 94 households per year and in the Waveney Local Plan area a need for affordable housing for 208 households per year, over the Plan period to 2036.

Purpose

1.10 The overarching aim of the SPD is to facilitate the delivery of affordable housing in accordance with the Local Plan policies. The guidance contained in this SPD will assist in the implementation of policies contained in the

Local Plans for East Suffolk regarding affordable housing, and as an SPD this guidance will, when adopted, be a material consideration in determining applications for planning permission.

1.11 This SPD is adopted by East Suffolk Council and relates to the areas covered by the Suffolk Coastal Local Plan and the Waveney Local Plan. The Broads Authority, which covers part of the northernmost area of the district, are the planning authority for the Broads and have their own Local Plan (adopted May 2019)⁸. Policy DM34 of the Broads Local Plan sets out that affordable housing is required on sites of ten or more dwellings and commuted sums are required on sites of 6-9 dwellings, to be provided in accordance with the standards and policies of the relevant District Council (in this case, the Waveney Local Plan). Guidance contained within this SPD may therefore be relevant in the Broads Authority area.

1.12 The guidance in the SPD may also be relevant to the implementation of Neighbourhood Plan policies that relate to affordable housing.

1.13 This document provides guidance which will be relevant during the preparation and determination of any planning applications which involve affordable housing, or for which the Local Plan policies concerning affordable housing are relevant.

1.14 This Affordable Housing Supplementary Planning Document replaces the following documents:

⁵ www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Suffolk-Coastal-Local-Plan/Adopted-Suffolk-Coastal-Local-Plan/East-Suffolk-Council-Suffolk-Coastal-Local-Plan.pdf

⁶ www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/Adopted-Waveney-Local-Plan-including-Erratum.pdf

⁷ Available at www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/local-plans/local-plan-evidence-base/

⁸ www.broads-authority.gov.uk/data/assets/pdf_file/0036/259596/Local-Plan-for-the-Broads.pdf



- [Supplementary Planning Guidance 2 Affordable Housing \(July 2004\)](#) – this relates to the former Suffolk Coastal area.
- [Affordable Housing Supplementary Planning Document \(May 2012\)](#) – this relates to the former Waveney local planning authority area.

Planning Policy

- 1.15 The East Suffolk Council Local Plans - the Suffolk Coastal Local Plan and the Waveney Local Plan (outside the Broads Authority who produce their own Local Plan) - as well as ‘made’ Neighbourhood Plans and the Minerals and Waste Local Plan produced by Suffolk County Council, form the development plan for the district. The delivery of affordable housing is a key element of the strategies of both Local Plans.
- 1.16 The Local Plans set out a spatial vision and strategies for the period to 2036. The key Local Plan policies to which this SPD relates are listed in Table 1.1 below.

Table 1.1 – key Local Plan policies

Local Plan Policies – Suffolk Coastal Local Plan

- SCLP5.10: Affordable Housing on Residential Developments
- SCLP5.11: Affordable Housing on Exception Sites

Local Plan Policies – Waveney Local Plan

- WLP8.2: Affordable Housing
- WLP8.6: Affordable Housing in the Countryside

- 1.17 Whilst the policies in the two Local Plans are founded on similar principles, i.e., they aim to secure affordable housing through residential development and provide opportunities for affordable housing to come forward on ‘exception sites’, there are differences in parts of the detail within each policy and these will be explained throughout the SPD.
- 1.18 Neighbourhood Plans may also set local policies on affordable housing, informed by local circumstances and evidence.
- 1.19 The guidance in this SPD has been written also with regard to the Government's most recent revision of the [National Planning Policy](#)



[Framework](#)⁹ (NPPF, 2021) and the relevant categories of the Planning Practice Guidance (PPG) to which the Council has regard as a material consideration in reaching decisions on planning applications. Of particular significance are NPPF Paragraphs 63, 64, 65, 72 and 78 and Annex 2, and the Planning Practice Guidance on '[Housing needs of different groups](#)'¹⁰, '[Build to Rent](#)'¹¹ and '[First Homes](#)'¹².

Role of the Council and other organisations

- 1.20 The Council has two important but distinct roles in the provision of affordable housing, as the local planning authority and as the housing authority.
- 1.21 As local planning authority, the Council has adopted Local Plans setting out requirements and policies to support the provision of affordable housing and will determine planning applications and lead on the preparation of Section 106 agreements.
- 1.22 As the housing authority, the Council will provide advice on local housing need, input into the preparation of legal agreements, allocate dwellings to eligible households and, in some cases, own and manage affordable housing stock. The Council also takes a proactive role in developing affordable housing and working with Registered Providers and communities to support and facilitate the delivery of affordable housing. This can involve the direct

development of affordable housing, delivery through renovation, or the regeneration of wider areas which can include affordable housing delivery. The Council's private sector housing service also has a role in restoring empty homes which may also be used for affordable housing.

- 1.23 Other Registered Providers of affordable housing are Housing Associations, a number of which operate in East Suffolk. Registered Providers may develop their own stock or purchase affordable dwellings, or land, that becomes available on residential sites.
- 1.24 Affordable housing may also be developed and retained by community led housing (CLH) organisations. CLH groups can become Registered Providers with the Regulator of Social Housing.

⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

¹⁰www.gov.uk/guidance/housing-needs-of-different-groups#addressing-the-need-for-different-types-of-housing

¹¹www.gov.uk/guidance/build-to-rent

¹²www.gov.uk/guidance/first-homes

2. Types of Affordable Housing





2. Types of Affordable Housing

2.1 Affordable housing is defined in the glossary (Annex 2) of the 2021 National Planning Policy Framework (NPPF) and can broadly be split into two groups – affordable housing for rent and affordable housing for purchase.

Affordable Housing Tenures

Affordable rent and social rent

2.2 Affordable rent and social rent are affordable housing that meets all of the conditions set under the definition of affordable housing for rent contained in the glossary, which are:

“(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);

Social rent is set at a lower monthly cost than affordable rent, typically around 50% - 60% of market rental costs, capped at the Local Housing Allowance, and is calculated through a formula published by the Government.

Affordable rented properties must not exceed 80% of the open market rental value. Affordable rental properties are usually owned and managed by a Registered Provider but could be owned and managed by the Council.

(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)”.

2.3 Affordable housing for rent should be provided by a Registered Provider, which includes Housing Associations, community led housing groups (where registered with the Regulator of Social Housing) and the Council. Affordable housing for rent is allocated based on housing need which is identified via the Gateway to Homechoice register (a choice based letting model)¹³. Whilst social rent provides lower cost dwellings for future occupants, the return is lower which can have an impact on the viability of the development. The majority of new affordable housing for rent is the affordable rent tenure rather than social rent.

Shared Ownership

2.4 Shared Ownership properties enable occupants to buy a share of a property, whilst paying rent and service charges on the remaining value. The initial share bought is between 10-75% with options to purchase additional shares as these become affordable to the occupant. Further

¹³ www.eastsuffolk.gov.uk/housing/affordable-housing/



information on the operation of Shared Ownership can be viewed on the [Government's shared ownership website](#)¹⁴.

Shared Equity

- 2.5 Shared equity allows purchasers to buy between 70-80% of the property. Shared Equity is often sold on a freehold basis with the discount protected by a charge. They will need at least 15% deposit but pay no rent on the unsold equity. This remains with the property owner, which is usually a private developer. Homeowners can buy the remaining equity after 2 years. The funds from additional equity bought should be retained by the Registered Provider and be used for future affordable housing schemes in the district.

Discounted home ownership

- 2.6 Discounted home ownership / discounted market sales housing are terms describing housing which is sold freehold at a value of up to 80% market value. There is no rent to pay on the remaining share, however the discount would be applied at the same proportion in any future re-sale.

Starter Homes

- 2.7 Starter Homes were introduced in the Housing and Planning Act 2016 and are offered at a minimum of 20% discount below open market value up to a value of £250,000, and to those with a maximum income of £80,000. They are available for first-time buyers under the age of 40 and if sold within 15 years the discount would need to be repaid. Starter Homes do not, therefore, remain affordable in perpetuity. The anticipated secondary

¹⁴ www.gov.uk/affordable-home-ownership-schemes/shared-ownership-scheme

legislation has not come forward and the Government has subsequently introduced First Homes as a new tenure aimed at first time buyers.

Rent to Buy

- 2.8 Rent to Buy enables occupants to rent a property at 20% below the open market rent, in order to save for a deposit to purchase the home in the future. Rent to Buy is an affordable ownership tenure and not a rental tenure, as the purpose is to provide an opportunity ultimately for affordable home ownership.

First Homes

- 2.9 First Homes were introduced on 28th June 2021 as a specific type of discounted market sales housing. First Homes are available to purchase with a minimum discount of 30% below market value, with the discount retained in perpetuity whilst the initial sale price must not exceed £250,000. As with Starter Homes, they are available to first time buyers with an annual household income not exceeding £80,000. The Government is requiring that 25% of homes delivered through developer contributions are First Homes. The Government has published [Planning Practice Guidance on First Homes](#)¹⁵.
- 2.10 Housing, which may be viewed as 'affordable' (i.e. it is cheaper in some way than market housing) but which is not contained in the definition of affordable housing in the NPPF (along with First Homes which is a new tenure established through the introduction of Planning Practice Guidance) is not affordable housing and would not be considered as such in terms of applying the policies of the Local Plans. Service Family Accommodation, for

¹⁵ www.gov.uk/guidance/first-homes



housing Ministry of Defence personnel and their families, is governed by nationally set rental rates which are below market rent. However, it does not fall within the NPPF definition of affordable housing and the provision of affordable housing on such developments would be considered on a case by case basis under the policies in the Local Plans.

Community led affordable housing

- 2.11 Community groups can bring forward affordable housing, often as ‘exception sites’ on the edge of settlements, as stand-alone projects, whereby the community group own and manage the homes, or work in partnership with a housing association.
- 2.12 Neighbourhood Plans may also have a role in the development of affordable housing. The Council is separately producing guidance for Neighbourhood Planning groups on the benefits and opportunities of planning for new housing, including affordable housing, in their plans.

Community-Led Housing

- 2.13 Community-Led Housing provides a route for delivery of affordable housing to meet the needs of the community. Community Led Housing is a term for projects that share these principles:
 - The community is integrally involved throughout the process in key decisions such as what housing is provided and where.
 - There is a presumption that the community group will take a long-term formal role in the support, ownership, stewardship or management of the homes.

- The benefits of the scheme to the local area and/or specified community group are clearly defined and legally protected in perpetuity via a non-profit company with an asset lock.
- The community does not necessarily have to initiate the project and does not have to build the homes themselves.

There are three main models followed in the provision of Community-Led Housing:

- Community Land Trusts
- Cooperative Housing Societies
- Cohousing

Community Land Trusts

- 2.14 Community Land Trusts (CLTs) are set up and run by communities to develop and manage homes, as well as other assets important to that community, such as community enterprises, food growing or workspaces. CLTs act as long-term stewards of the housing to ensure the homes remain affordable for future generations based on what local people earn rather than land values. The Right to Buy does not apply to housing delivered through a Community Land Trust.
- 2.15 CLTs use democratic governance structures based on a non-profit company to protect the homes and infrastructure via an ‘asset lock’. The Council will provide support to CLTs providing they are in line with the definition as per the Housing and Regeneration Act (2008).



Co-operative Housing Societies

- 2.16 Co-operative Housing Societies are non-profit organisations that seek to meet the needs of their members. Like Community Land Trusts, Co-operative Housing Societies deliver affordable housing for rent or home ownership as well as other assets such as space for employment, recreation and growing food. Under this model there is joint ownership and management of land and assets. Cooperative Housing Societies are exempt in law from the Right to Buy.

Cohousing

- 2.17 Cohousing communities are created, owned and run by their residents. Each household has a self-contained, private home (rented or purchased) as well as shared community facilities and spaces (e.g. a shared laundry room, a common house, guest accommodation, community allotments, etc.). Residents collectively manage the community. Cohousing is a particularly relevant model for single-person households who may otherwise be vulnerable to the adverse health impacts of social isolation, and whom feel a strong community connection is important to them for their wellbeing and quality of life. However, Cohousing is also a highly suitable model for larger households and households with children.
- 2.18 Cohousing schemes are intentional communities whereby members agree to abide by a set of agreed values. Cohousing is not an affordable housing model but can deliver homes for affordable rent or home ownership tenures in perpetuity. Clarity about tenures would be required as part of the early consultation with the Council to ensure the correct advice is given.

- 2.19 Through its Housing Enabling role, the Council provides support and guidance on community led housing initiatives. It is likely that most community led housing developments will come forward as exception sites. Such proposals would need to be supported by evidence of housing need (see Chapter 8) and details of how the affordable housing will be protected in perpetuity would be required. A Section 106 agreement would be expected to be agreed as part of the planning application. Community groups can request specific advice from the Council's Housing Enabling Team (see Chapter 6).

Affordable Self Build and Custom Build Housing

- 2.20 Self-build and custom-build housing is not, by definition, affordable housing, albeit that it can provide an opportunity for some cost savings where future occupants undertake a degree of work themselves (often known as 'sweat equity').
- 2.21 Self-build and custom-build housing has its legal basis in the Self Build and Custom Housebuilding Act 2015 and is defined in the NPPF as:

“Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-Build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that act.”

It is only 'affordable housing' by definition if it is delivered in a manner that meets with the definition of affordable housing (see sub-section 'Affordable Housing Tenures' above for definitions).



- 2.22 The Council is actively supporting and facilitating the delivery of self-build and custom-build housing, including through its Housing Enabling Strategy as well as through policies in its Local Plans. In principle the Council will support the development of affordable self/custom build schemes where they are in accordance with relevant Local Plan or Neighbourhood Plan policies.
- 2.23 The delivery of affordable self-build and custom-build properties is, by its very nature, more complex than the delivery of either affordable housing or self and custom-build housing. For example, occupants of affordable housing would usually not be identified until later in the development process and consideration would therefore need to be given to identifying occupants earlier on to ensure that they can have an appropriate level of input into the design and construction of the dwellings.
- 2.24 Affordable self-build and custom-build housing could however be delivered through a number of means, including:
- A Registered Provider constructing a ‘shell’ which can be completed by the occupant under a Shared Ownership arrangement.
 - Transfer of a ‘shell’ from a developer to a Registered Provider with the future occupant undertaking work to finish the property.
 - A Registered Provider delivering homes for rent, with future occupants having an input to the design and/or assisting with elements of the construction process.
 - Development initiated or commissioned by community led housing groups, with future occupants involved in the design and construction process.
- The provision of serviced plots that are below market value.
- 2.25 Affordable custom-build, rather than self-build, may be more feasible in instances where a number of properties are being developed and managed under a Registered Provider, where future occupants can customise the property in accordance with their requirements.
- 2.26 A legal agreement (Section 106 agreement) will ensure that the self-build properties remain affordable. The prospective occupants may also be expected to meet relevant eligibility criteria, as set out in the Section 106 Model Heads of Terms and Template Clauses in Appendix 2.
- 2.27 Where affordable self-build or affordable custom-build is to be delivered on Exception Sites it is expected that a local need for affordable housing (see Chapter 6) as well as a local aspiration to deliver this as self and/or custom build will have been identified.
- 2.28 For self-build properties that are built as a form of discounted market sales housing, the discount to the occupant and future occupants would need to comply with national policy on affordable housing and would be secured through the Section 106 agreement. This is at least 20% below market value for discounted market sale properties and other low-cost homes for sale and at least 30% below market value for First Homes.
- 2.29 The Council’s Local Plan policies which require a proportion of affordable housing to be provided as part of residential development (SCLP5.10 and WLP8.2) apply to development of solely self-build/ custom-build developments as well as to other housing proposals. The Council’s Local Plan policies are clear that self-build and custom-build housing will only be supported where in compliance with all other relevant Local Plan



policies and self and custom build developments will therefore be expected to provide the required amount of affordable housing.

2.30 The Council will expect provision to be made on-site, however it may consider a commuted sum in exceptional circumstances where provision on site is not viable.

2.31 Affordable self and custom-build dwellings will need to meet the definition of affordable housing set out in the NPPF – whilst there are usually some cost saving benefits from self and custom-build these benefits by themselves do not meet with the definition of affordable housing. It is expected that the tenure mix of the affordable self build properties would meet the requirements of policies SCLP5.10 and WLP8.2, including the Government’s requirement for 25% of affordable housing to be First Homes. Paragraph 65 of the NPPF sets out that exemptions should be made to the policy requiring at least 10% of the total number of homes on the site to be available for home ownership in the case of development proposed to be developed by people who wish to build or commission their own homes (as well as other circumstances). However, this does not preclude affordable self and custom build units coming forward for ownership tenures and the Council’s Local Plan policies on provision of affordable housing do not set out an alternative approach for self and custom build affordable properties.

2.32 The Council will expect the applicant to set out how the affordable dwellings will be delivered. Mechanisms for this can include:

- Land offered to Registered Providers for the delivery of the affordable self-build or custom-build plots.

- The sale of plots at below market value with the reduction in market value captured through the Section 106 agreement. The developer / applicant should put forward a mechanism for securing the discount in perpetuity.

In circumstances where the Council agrees that reasonable steps have been taken to secure provision of the affordable dwellings as self-build or custom-build, and where there is clear evidence that no Registered Provider has been willing to take on the affordable self build element, affordable housing units can be built by the developer and transferred to a Registered Provider.

2.33 A Design Code will usually be secured for self-build developments, and this will also apply to groups of affordable self-build units on the site.

3. Identifying an Appropriate Mix of Affordable Housing

Key Local & National Policies

Suffolk Coastal Local Plan (2020) polices:

- SCLP5.10 Affordable Housing on Residential Developments

Waveney Local Plan (2019) policies:

- WLP8.2 Affordable Housing

NPPF (2021) and National Guidance:

- Planning Practice Guidance on First Homes



3. Identifying an Appropriate Mix of Affordable Housing

3.1 Policy SCLP5.10 and Policy WLP8.2 set out the tenures of affordable housing that are expected to be provided on residential sites which trigger the need for affordable housing:

Table 3.1 – Affordable housing requirements of Local Plan policies (see also paragraphs 3.7 – 3.14 on application of the Planning Practice Guidance on First Homes)

	Threshold	Requirement	Tenure
Suffolk Coastal Local Plan (SCLP5.10)	<ul style="list-style-type: none"> 10 dwellings or more and sites of 0.5ha or more 	<ul style="list-style-type: none"> 1 in 3 – applies to whole plan area 	<ul style="list-style-type: none"> 50% affordable rent / social rent 25% shared ownership 25% discounted home ownership
Waveney Local Plan (WLP8.2)	<ul style="list-style-type: none"> 11 dwellings or more 	<ul style="list-style-type: none"> 20% in Lowestoft and Kessingland (excluding Corton) 40% in Southwold and Reydon 30% elsewhere 	<ul style="list-style-type: none"> 50% affordable rent

3.2 These tenures have been informed by the Strategic Housing Market Assessment¹⁶ which was produced to inform the preparation of the Local Plans, in line with the requirements of the National Planning Policy Framework (NPPF).

3.3 The Strategic Housing Market Assessment provides an assessment of affordable housing need for each plan area and for the plan period. As well as informing the tenures set out in the policies, the Strategic Housing Market Assessment provides a further, detailed breakdown by Local Plan area of the size of properties needed within different tenures, including affordable tenures. As a key piece of evidence, the Strategic Housing Market

Assessment should be used to inform an appropriate mix of affordable housing, along with other considerations as set out further below. The needs in the Strategic Housing Market Assessment cover the Local Plan areas and the Local Plan period up to 2036 and will therefore be particularly relevant on larger sites that will be meeting a wider affordable housing need.

3.4 The tenure and size of affordable housing needed for the Suffolk Coastal Local Plan area is set out in Appendix 4 of the Strategic Housing Market Assessment – Part 2 Partial Update (January 2019). The results relating to the 2014-based household projections relate most closely to the local plan

¹⁶ For the Waveney Local Plan area - www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/Ipswich-and-Waveney-Housing-Market-Areas-Strategic-Housing-Market-Assessment-Part-2.pdf

For the Suffolk Coastal Local Plan area - www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/SHMA-Part-2-update-2019.pdf (2014-based outputs)



housing requirement and it is these outputs that should be used. Tables 4.2f to 4.8f set out the requirements across different tenures.

- 3.5 The tenure and size of affordable housing needed for the Waveney Local Plan area is set out in Chapter 4 of the Strategic Housing Market Assessment – Part 2 (May 2017). Tables 4.2b to 4.8b set out the requirements across different tenures. Policy WLP8.2 states that of the affordable housing required on sites of 11 or more 50% should be for affordable rent. It is expected that, aligned with paragraph 8.12 of the Local Plan, the remainder would be affordable ownership tenures.
- 3.6 The relevant tables from the Strategic Housing Market Assessment are copied into Appendix 1, for ease of reference, however the full Strategic Housing Market Assessment reports should be referred to for context.

First Homes

- 3.7 The Government’s First Homes policy came into force on 28th June 2021. The Planning Practice Guidance on First Homes¹⁷ states that First Homes are a specific type of discounted market sale housing and the Government’s preferred discounted market tenure. The PPG suggests that 25% of all affordable housing delivered through developer obligations should be First Homes including where a local planning authority has adopted Development Plan policies which specify the expected mix of affordable housing tenures, as is the case with East Suffolk Council’s Local Plans. The PPG does not displace the statutory presumption in favour of the Development Plan but is a material consideration in the Council’s decision-making. The Strategic Housing Market Assessment assessed the need for different tenures of affordable housing over the plan period but did not

¹⁷ www.gov.uk/guidance/first-homes

consider whether there was a need for First Homes as this tenure didn’t exist at the time. The SHMA did however identify a need for discounted market housing and Starter Homes. In Policy SCLP5.10 the results of the SHMA have informed the policy requirement for 25% of the affordable housing to be for discounted home ownership, although the policy itself does not require any particular type of discounted market housing. Policy WLP8.2 does not set out proportions for affordable home ownership tenures, however the SHMA assessed that just over 20% of the need for affordable housing was for Starter Homes / discounted market dwellings.

- 3.8 The PPG suggests that once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the local plan and that the remainder of the affordable housing tenures should be delivered in line with the proportions set out in the local plan policy. In the case of the Local Plans, however, Policy SCLP5.10 already requires 25% of affordable housing to be delivered as ‘discounted home ownership’ without further specifying what types of such housing are required. The Council considers that, as First Homes are a specific type of discount market tenure, the delivery of 25% First Homes in accordance with the PPG will accord with and fulfil the requirement in Policy SCLP5.10 to deliver 25% discounted home ownership. The only requirement in Policy WLP8.2 is that 50% of affordable housing be delivered as affordable rent which will not be compromised by the delivery of 25% First Homes. The Council will therefore expect schemes to deliver the following mix. In the Suffolk Coastal Local Plan area, schemes will be expected to deliver 25% First Homes (which will fulfil the requirement to deliver 25% discounted home ownership), 50% affordable rent / social rent and 25% Shared Ownership. This will accord with the PPG requirement to deliver 25% First Homes and with the mix specified by Policy SCLP5.10. In the Waveney Local



Plan area, schemes will be expected to deliver 25% First Homes and 50% affordable rent. Again, this will accord with the PPG requirement to deliver 25% First Homes and accord with the requirements of Policy WLP8.2.

- 3.9 Around 27% of the need for affordable housing in the Waveney area was assessed as being for Shared Ownership properties and the Council will therefore still expect the provision of Shared Ownership alongside First Homes.
- 3.10 This means that, in the Suffolk Coastal Local Plan area, other forms of discounted home ownership than First Homes are not expected to come forward under Policy SCLP5.10. However, the proposed approach will ensure compliance with both the PPG and the mix specified by Policy SCLP 5.10. It ensures that 25% of affordable housing is delivered as First Homes as the Government’s preferred form of discounted market tenure whilst also ensuring that the need for affordable rented properties and Shared Ownership properties, as evidenced by the Council’s Strategic Housing Market Assessment¹⁸, is addressed in accordance with adopted Local Plan policies. The PPG sets out that social rent should be delivered in the same percentage as set out in the Local Plan, and this approach also safeguards the provision of any social rent which may come forward under SCLP5.10.
- 3.11 The price cap (£250,000 as set out in the PPG) should be viewed as just that, a cap, and in accordance with the guidance in the Planning Practice Guidance the Council will expect that the size of First Homes reflects affordable needs, in particular acknowledging that the median house price in East Suffolk in 2020 was £245,000¹⁹.

¹⁸ www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/Ipswich-and-Waveney-Housing-Market-Areas-Strategic-Housing-Market-Assessment-Part-2.pdf

- 3.12 Occupants of First Homes will be required to meet eligibility criteria, as set out in the Model Heads of Terms and Template Clauses in Appendix 2.
- 3.13 In accordance with the transitional measures set out in the Planning Practice Guidance, the First Homes requirement will not apply to the following:
 - sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021;
 - applications for full or outline planning permission where there has been significant pre-application engagement which are determined before 28 March 2022;
 - sites where local and neighbourhood plans are adopted/made under the transitional arrangements, as detailed in paragraphs 18 and 19 of the PPG.
- 3.14 Developments of specialist housing which are required to provide affordable housing under Policy SCLP5.10 and Policy WLP8.2 will not need to provide First Homes as part of the tenure mix, where that specialist accommodation will usually be occupied by older persons rather than first time buyers.

Other considerations

- 3.15 It should also be recognised that needs may change over time or there may be particular needs for certain types of affordable properties in a specific

¹⁹ www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian (data published 25th March 2021)



location, and this is acknowledged in the Local Plans. For this reason, the Housing Register or other evidence of local needs should be also considered alongside the Strategic Housing Market Assessment. The Housing Enabling Team can be contacted for guidance and for information on the data held on the Housing Register.

- 3.16 The Housing Register, managed through Gateway to Homechoice, provides details of those currently in need of affordable housing who have registered. The Gateway to Homechoice register does not register need for affordable home ownership dwellings, however, need for such tenures can be identified through the Help to Buy Agents²⁰ and/or through Registered Providers.
- 3.17 For relatively small sites where a proportion of affordable housing is required, the evidence of local need on the Housing Register may significantly influence the affordable housing mix (noting that the overall tenures would be expected to be in line with the adopted planning policies). However, it is particularly important that proposals on large and strategic sites, that may deliver over a longer period of time and meet wider than local needs, seek to address the needs identified in the Strategic Housing Market Assessment and are not solely informed by consideration of current local needs for affordable housing.
- 3.18 There may also be site specific considerations that inform the mix of affordable housing, for example the proximity of a site to a school may support a greater focus on family-sized homes. The location and nature of a site, and how an appropriate design responds to that location, may also influence the mix. In addition, Chapter 7 (Design) provides guidance on the

appropriate distribution and placement of affordable homes on larger mixed-tenure sites.

- 3.19 Neighbourhood Plans may set their own policies on affordable housing mix, informed by local evidence, and in such circumstances the affordable housing mix would be expected to reflect the Neighbourhood Plan policy.
- 3.20 The advice of the Council's Housing Enabling Team will be sought in responding to pre-application requests and in considering relevant planning applications, outlining the amount, tenure, type and size of affordable units that would be expected on a site.
- 3.21 On exception sites, the principle behind such proposals being acceptable is that they will be meeting a local need for affordable housing that cannot be met through existing housing allocations. For such proposals, the responsibility is therefore on the applicant to demonstrate that a local need for affordable housing exists and will be addressed through the proposed scheme. Further guidance on exception sites is contained in Chapter 6 and guidance on undertaking a local housing needs assessment is contained in Chapter 8.

Specialist Housing

- 3.22 Both Local Plans recognise that the district has an ageing population and seek to provide for a mix of housing that will better meet the needs of older people. A part of this approach is supporting the appropriate provision of specialist housing. Needs for specialist housing were assessed through the Strategic Housing Market Assessment as part of the preparation of the Local

²⁰ www.onthemarket.com/help-to-buy/





Plans. The Strategic Housing Market Assessment assessed needs for the following types of accommodation:

- Sheltered housing
- Enhanced sheltered housing
- Extra care housing
- Residential care (nursing and residential care homes)

3.23 The Suffolk Coastal Local Plan further breaks the needs down into market and affordable needs, demonstrating a need for a total of 95 affordable sheltered, 53 affordable extra care units and 424 affordable residential care units over the plan period (Table 5.3 of the Local Plan).

3.24 Residential care will fall within Use Class C2 Residential Institutions. Other forms of specialist housing may fall within Use Class C2, however this is not always the case and will depend on the level of care to be provided. It has been determined in the courts that Class C2 can include accommodation in the form of dwellings, for example flats and bungalows, each of which have facilities appropriate for private, or independent, domestic existence, in circumstances where care is provided for an occupant in each dwelling who was in need of care as defined in Article 2 of the Use Classes Order. The accommodation must also be capable of being collectively described as a residential institution.

3.25 Proposals for C2 uses, other than for residential care/nursing homes, will be expected to apply the requirements for affordable housing set out under policies SCLP5.10 and WLP8.2. These Local Plan policies do not distinguish

between housing development falling within either Use Class C2 or C3 in this respect.

3.26 Policy SCLP5.10 of the Suffolk Coastal Local Plan expects that affordable housing to meet the needs of older people will form part of the mix of affordable housing that is provided on residential development. Policy WLP8.2 of the Waveney Local Plan states that sheltered and extra care housing should be included as affordable units where needed and where practicable. Consideration should therefore be given to whether, on non-specialist developments, there are any needs for affordable specialist housing that could be provided as part of the affordable mix. On specialist developments the affordable housing is expected to be specialist. Local needs for specialist housing can be identified through the Council's Gateway to Homechoice housing register. Evidence may also be available through the Council's Older Persons Housing Strategy which is currently being developed.

3.27 The Government has introduced Optional Technical Standards for accessible and adaptable dwellings (Part M4(2)) and wheelchair user dwellings (Part M4(3)). Whilst these standards are set out in Part M of the Building Regulations, they can only be required through the planning system.

3.28 A proportion of dwellings constructed to M4(2) standards are required under Policy SCLP5.8 'Housing Mix' (at least 50%) and Policy WLP8.31 'Lifetime Design' (at least 40%) and as set out in Chapter 7 'Design' it is expected that a higher proportion of the M4(2) properties would be distributed to the affordable housing reflecting that generally there are higher levels of disability in those who need affordable housing²¹. The

²¹www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandhousinguk/2019



proportions would be informed through engagement with the Housing Enabling Team. Policy SCLP5.8 also expects all new specialist dwellings to be built to M4(2) standards.

- 3.29 There is evidence on the Council’s Housing Register of need for wheelchair accessible accommodation and therefore in some circumstances the Council may ask for a proportion of affordable properties to be constructed to M4(3) standards as part of the provision of affordable housing under Policies SCLP5.10 and WLP8.2. Wheelchair user dwellings should be designed to assist residents with mobility impairments. They should include step free access to the entrance level and outdoor spaces, easy access from vehicle to dwelling, and wet rooms. There is a need, as evidenced by the Gateway to Homechoice register, for one and two bedroom homes as well as family size housing to cater for families with disabled household members. The Council will accept M4(3) flats or bungalows as appropriate.
- 3.30 The Council is aware of the additional costs associated with building to M4(3) standards and where an applicant considers that such provision would result in viability issues, the Council would request the applicant submit a viability report in accordance with the guidance set out in the appendices of the Local Plans. In circumstances where there is an identified need for M4(3) affordable properties and the Council is satisfied that as a result delivery of the full policy compliant amount of affordable housing cannot be achieved for viability reasons, the Council will consider whether

the loss of a proportionate number of affordable homes would be acceptable in order to secure some affordable M4(3) properties.

Build to Rent

- 3.31 The Planning Practice Guidance on Build to Rent²² contains specific guidance on the provision of affordable housing. This explains that, on such schemes, affordable housing should be provided in the form of affordable private rent, at least 20% below market rent values. The Planning Practice Guidance explains that the affordable and market rent units should be managed collectively by a single build to rent landlord, rather than through a Registered Provider of affordable housing.
- 3.32 The Planning Practice Guidance on Build to Rent sets out that 20% is generally a suitable benchmark for the level of affordable private rented homes to be provided. The Council’s Local Plan policies SCLP5.10 and WLP8.2 set out the proportions and tenure mix of affordable housing that are expected to be provided on residential developments (see table 3.1 above). In accordance with paragraph 65 of the NPPF, the Council is not able to require proposals for Build to Rent schemes to provide affordable housing for ownership tenures. As the policies do not set different thresholds for build to rent schemes it is expected that the relevant proportion of affordable housing will still be achieved, unless exceptional circumstances are demonstrated as set out in the policies, but this will be affordable housing for rent.

²² www.gov.uk/guidance/build-to-rent



4. Section 106 Agreements





4. Section 106 Agreements

- 4.1 Policy SCLP5.10 and Policy WLP8.2 set out requirements for a proportion of affordable housing to be provided as part of residential developments, whilst Policy SCLP5.11 and Policy WLP8.6 provide opportunities for affordable housing to come forward on exception sites. Permission for affordable housing may also be granted on other sites, for example within the Settlement Boundary.
- 4.2 Where affordable housing forms part of a development proposal, it will be secured through a Section 106 legal agreement (also known as a planning obligation). A Section 106 agreement, which takes its name from the relevant section of the Town and Country Planning Act 1990, is a legal agreement between the Council and a developer or applicant (and in some cases other parties). A Section 106 agreement is used to secure measures which are necessary to make development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. A Section 106 agreement is bound to the land and the development itself, rather than to the signatory, and will therefore continue to apply once land or dwellings are sold on.
- 4.3 A Section 106 agreement will be finalised after a resolution to grant planning permission, and the issuing of the planning permission is therefore dependent upon the completion of the Section 106 agreement.
- 4.4 A Section 106 agreement will cover a number of matters in relation to affordable housing, including:
- The number of affordable dwellings;
 - The type, tenure and size (number of bedrooms) of dwellings;

- Arrangements for ensuring that the housing remains affordable in perpetuity;
- Phasing of the completion of dwellings;
- How the affordable housing will be achieved e.g. through construction and transfer of units;
- Occupancy criteria;
- A mortgagee in possession clause

4.5 Whilst the Local Plan policies expect affordable housing provision to be made on-site, in some exceptional circumstances a financial contribution towards off-site provision of affordable housing may be agreed during the consideration of a planning application. Where this is the case the Section 106 agreement will be used to secure an off-site contribution. These contributions, known as commuted sums, are explained in more detail in Chapter 5.

4.6 The provision of guidance on Section 106 agreements in this Supplementary Planning Document, including the Model Heads of Terms and Template Clauses (see Appendix 2), is aimed at providing an efficient and consistent approach to the preparation of Section 106 agreements. This will help to support necessary legal agreements to be secured in a timely manner, and to support the delivery of housing.

Pre-application advice

4.7 In order for the Section 106 agreement preparation process to run smoothly, it is important that applicants give early consideration to the delivery of affordable housing.



- 4.8 It is important to engage with the Council’s pre-application advice service to obtain advice in relation to affordable housing need and the types of dwellings that should be provided. This will help to reduce the potential need for changes to the design and the affordable housing provision over the course of the determination of the planning application. The advice of the Council’s Housing Enabling Team on affordable housing needs will be sought as part of the pre-application response.
- 4.9 A Registered Provider of Affordable Housing will ultimately take on the ownership / management of the affordable housing (other than for some discounted market sale tenures). The Council supports the delivery of affordable housing via Community Led Housing groups. However, to manage affordable rented housing, they would need to become a Registered Provider or enter into a management agreement with a Registered Provider, either the Council or a Housing Association operating in the district.
- 4.10 The Model Heads of Terms require that a contract should be entered into with a Registered Provider, or evidence provided to demonstrate that negotiations are in hand, prior to occupation of 40% of the market dwellings on the development. The Affordable Housing Scheme, that will be required under the Section 106 agreement, should include details of the Registered Provider, where known. Whilst it is understood that the needs and circumstances of Registered Providers can change over the course of the evolution of a development, and that formally tying in a Registered Provider at an early stage can lead to abortive work, early engagement will nevertheless reduce the risk and degree of changes that may need to be made later on. Engagement on matters such as the design, type, size, layout and distribution of the affordable units is important in maximising the likelihood that a Registered Provider will wish to take on the affordable units at a later stage. Whilst this is crucial for all sites, for small

sites which will take less time to construct and therefore where the affordable element is likely to come forward sooner, it is even more imperative that early engagement takes place with Registered Providers.

Planning application stage

- 4.11 At the planning application stage, including at outline stage, information on the types, sizes, location and tenure of affordable housing proposed should be submitted. At the detailed application stage (full or reserved matters) the applicant should clearly specify the plots which are proposed as affordable housing, including proposed tenures, sizes and which dwellings are to be built to M4(2) or M4(3) (if applicable) standard. For outline applications, percentages rather than absolute numbers would be acceptable where this is still to be confirmed at reserved matters stage. It is recognised that at outline stage indicative locations of dwellings may be submitted. Whilst this may not form part of the determination, the Council may put an informative on the decision notice to highlight this with the expectation this would be taken into account in the preparation of the subsequent reserved matters application(s). Where, on large sites, delivery of affordable housing is to be phased, details of the proposed phasing should be submitted.
- 4.12 The Council’s Local Validation List (current version dated October 2020) sets out the requirement for submission of an Affordable Housing Statement with a planning application which includes affordable housing (or one for which affordable housing would be required by the Council’s policies). The Affordable Housing Statement will ideally be submitted as a standalone document.



4.13 Community Led Housing groups seeking to bring forward affordable housing schemes are encouraged to discuss their project with planning and housing enabling officers at the earliest opportunity.

Model Heads of Terms

4.14 Model Heads of Terms and Template Clauses are included in Appendix 2. These are the standard terms under which the Council expects to enter into through Section 106 agreements. Deviation from the Model Heads of Terms and Template Clauses will only be accepted where justified and in exceptional circumstances. This might include some circumstances where affordable housing is brought forward other than as required as part of a market housing development or as an exception site.

Occupancy and allocation

4.15 A Section 106 agreement will set out the mechanisms for the occupancy and allocation of affordable properties.

4.16 Nomination rights provide for the Council to nominate eligible persons for occupation of affordable dwellings for rent (see paragraph 16 of Model Heads of Terms). The Council’s housing service maintains (along with other partners in the Gateway to Home Choice partnership) a Housing Allocations Policy which sets out the way in which properties will be provided to eligible households. Those identified as being in most need will receive priority, within the terms of the Section 106 agreement. Nomination agreements are between the Council and Registered Providers. For specialist housing, nominations are via Adult Social Care, Suffolk County Council.

4.17 For forms of discounted market sale housing, the Model Heads of Terms require the owner to agree a procedure with the Council for verifying purchasers prior to commencement. The Council is drafting a process for

this which will be published on its website. It is not expected that the Council would undertake the task of verifying potential occupants (in relation to First Homes the Council is anticipating a prescribed procedure from the Department of Levelling Up, Homes and Communities).

4.18 The Local Connections Cascade, set out in Appendix 2, provides a mechanism for allocating affordable housing to people who have a strong local and/or work connection. This will be applied, as appropriate, to affordable housing delivered through a planning obligation.

Deviating from the Model Heads of Terms and template clauses

4.19 As set out above, the Council will expect the Model Heads of Terms and Template Clauses to be applied in all circumstances. However, there may be exceptional circumstances where the Council agree to an alternative approach. Should a developer or applicant need to propose an alternative approach the Council will consider that proposal against the following principles:

- Any alternative approach must be necessary for securing the required affordable housing;
- The applicant or developer must provide robust evidence that the affordable housing could not be developed or be retained satisfactorily under the Council’s Model Heads of Terms and Template Clauses.

First Homes

4.20 The Government has published template clauses in relation to First Homes which the Council has integrated, where appropriate, into its Model Heads of Terms and Template Clauses. Under the First Homes arrangements, the



local authority will be responsible for certifying potential occupiers qualify to purchase a First Home.

- 4.21 In terms of phasing, as First Homes would usually be purchased on a property by property basis by occupants (in the same way as market homes are), on larger sites where affordable provision is to come forward in phases the Council would expect First Homes to be spread across phases to ensure continuation of supply and reduce the risk of First Homes reverting to market dwellings.

Varying a Section 106 agreement

- 4.22 The Council recognises that circumstances may change over the course of the development of a site and therefore some flexibility for varying terms of an agreed Section 106 agreement is acknowledged within the Model Heads of Terms, however this can cause uncertainty for communities and will only be agreed to where absolutely necessary.
- 4.23 Where a developer wishes to vary the number or mix of affordable dwellings set out in a Section 106 agreement, which would result in a lower or non-policy compliant provision of affordable housing, the Council will require a viability assessment to be submitted in accordance with the requirements set out in the appendices of the two Local Plans.
- 4.24 The Model Heads of Terms (paragraph 14) set out that the Section 106 agreement should include provisions for circumstances where a Registered Provider cannot be found. The term 'reasonable endeavours' is used. The Council will come to a view as to whether reasonable endeavours have been made, and the party seeking to negotiate the terms of the Section 106 agreement will be expected to demonstrate that they have made proactive

²³ www.eastsuffolk.gov.uk/housing/affordable-housing/registered-housing-providers/

contact with at least five Registered Providers who operate and are actively seeking new housing stock within Suffolk and/or the surrounding area to establish whether they would be interested in taking on the affordable dwellings. The Council provides a list of Registered Providers on its [website](#)²³. The Council would expect to see evidence of contact made with Registered Providers, with reasonable offers sought. Following the submission of evidence and prior to any renegotiations of the Section 106, the Council may consider acquiring the homes for inclusion with the Housing Revenue Account portfolio.

- 4.25 Other options could include allowing payment of a commuted sum, providing serviced land at no cost to the Local Authority for development at a later time or the developer providing a reduced number of affordable units at no cost to a Housing Association.
- 4.26 The Model Heads of Terms also include provision for a Registered Provider to convert the tenure of the affordable housing where there are no prospective occupants after a period of 3 months from handover (paragraph 15). In such circumstances the Council will require evidence to be submitted to the satisfaction of the Council, explaining how the dwellings have been marketed and how prospective occupants have been sought.
- 4.27 In the circumstances outlined in the paragraphs above, the Council will consider the precise steps on a case by case basis.

Build to Rent

- 4.28 Where a development comes forward as Build to Rent, the [Planning Practice Guidance](#)²⁴ expects the affordable element will be private affordable rent and that the full scheme would be under common management. The PPG

²⁴ www.gov.uk/guidance/build-to-rent#planning-for-build-to-rent



sets out that the process for managing affordable private rent units should be set out in the Section 106 agreement and that this should set out the parameters of the letting's agreement, the rent levels, apportionment of the homes across the development, a management and service agreement, and a marketing agreement setting out how their availability is to be publicised. The Section 106 agreement is also to require build to rent scheme operators to produce an annual statement to authorities, confirming the approach to letting the affordable units, their ongoing

status, and clearly identifying how the scheme is meeting the overall affordable housing level required in the planning permission. The PPG also expects that the eligibility criteria would be agreed with the local authority and established through the Section 106.

- 4.29 Given that it is not anticipated that a significant number of Build to Rent schemes will be proposed, the Council will consider such proposals and the Section 106 agreements on a case by case basis, including eligibility criteria.

5. Financial Contributions



Key Local & National Policies

Suffolk Coastal Local Plan (2020) polices:

- SCLP5.10 Affordable Housing on Residential Developments

Waveney Local Plan (2019) policies:

- WLP8.2 Affordable Housing



5. Financial Contributions

- 5.1 Policies SCLP5.10 and WLP8.2, and paragraph 63 of the 2021 National Planning Policy Framework (NPPF), expect that affordable housing will be provided on site. The provision of affordable housing on site provides a degree of certainty over the provision of the affordable housing and also helps to support mixed and integrated communities.
- 5.2 However, the policies recognise that there may be exceptional circumstances where the affordable housing cannot feasibly be provided on site. This may include developments such as solely flatted development where it is demonstrated that it would be unfeasible for a Registered Provider to manage part of a block; circumstances where the Council is satisfied that the provision of affordable housing on site would not be viable; the amount of affordable housing that could be viably delivered on site would be too small in number for it to be practical to manage by a Registered Provider; or in circumstances where the Council considers that a contribution could enable delivery of a better affordable housing solution. It may be that altering the tenure could result in satisfactory provision on site and would present a better solution for the delivery of affordable housing than the provision of a financial sum.
- 5.3 A financial contribution will also be sought where the requirement of either Policy SCLP5.10 or Policy WLP8.2 would result in a fraction of an affordable house being provided. For example, under Policy SCLP5.10, which requires 1 in 3 dwellings to be affordable on sites of ten or more dwellings or of 0.5ha or more, a development of 11 dwellings would be required to provide 3.67 affordable dwellings. In this case a commuted sum equivalent to 0.67 of an

affordable dwelling would be sought, along with 3 affordable dwellings provided on site.

- 5.4 As set out in paragraph 1.11, the Broads Authority are the local planning authority for the part of East Suffolk in the Broads. Policy DM34 of the Broads Local Plan sets out that commuted sums are required on sites of 6-9 dwellings, to be provided in accordance with the standards and policies of the relevant District Council (in this case, the Waveney Local Plan). The guidance set out here may therefore be relevant in the Broads Authority area.

Calculating commuted sums

- 5.5 Commuted sums will be calculated based on the serviced open market plot values for the size of dwellings that would have been required on site. Serviced open market plot values are used to reflect that had provision been made on site the cost to a Registered Provider would have reflected the build costs. The Council annually updates the evidence of open market plot values and publishes these on the Council's website²⁵, and these values will be used in calculating commuted sums. In circumstances where a developer proposes alternative values, this will need to be justified by the developer to the satisfaction of the Council.

Spending commuted sums

- 5.6 Where a commuted sum is required, this will be secured through the Section 106 agreement and will be payable at the trigger point set out in the Section 106 agreement. To ensure that suitable options for spending commuted sums can be identified, commuted sums will usually be able to

²⁵ www.eastsuffolk.gov.uk/planning/developer-contributions/s106/



be spent across East Suffolk. This provides greater opportunities for pooling sums and being able to take advantage of opportunities which arise and minimises the risk of sums having to be refunded.

5.7 The Council is developing a policy to guide the spending of commuted sums. Through this the Council is proactively working to ensure that sums are spent in a timely manner. This includes providing Registered Providers, community led housing organisations and the housing development service at the Council with an opportunity to apply for the funding.

5.8 In exceptional circumstances where commuted sums are received in lieu of provision of First Homes, in accordance with the Planning Practice Guidance on First Homes a proportion will be spent on delivery of First Homes to the equivalent of 25% of the value of affordable housing required. Where a mix of contributions and on-site provision is secured, 25% of the overall value of affordable housing contributions should be applied to First Homes.

6. Exception Sites



Key Local & National Policies

Suffolk Coastal Local Plan (2020) policies:

- SCLP5.11 Affordable Housing on Exception Sites

Waveney Local Plan (2019) policies:

- WLP8.6 Affordable Housing in the Countryside

NPPF (2021) Paragraphs

- 72, 78



6. Exception Sites

- 6.1 An 'exception site' is one where planning permission for open market housing would not normally be granted. The Local Plans contain Settlement Boundaries within which housing development is supported in principle. The policies provide limited opportunities for development outside of Settlement Boundaries, an approach which lowers land values in these locations by removing the 'hope value' for market housing which has a higher value.
- 6.2 Paragraph 78 of the 2021 National Planning Policy Framework sets out that local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs.
- 6.3 Paragraph 72 of the NPPF also sets out that local authorities should support the development of entry-level exception sites suitable for first time buyers. The recently introduced Planning Practice Guidance on First Homes provides for the development of First Homes exception sites. The principle is similar to other exception sites, however the PPG / NPPF states that entry level and First Home exception sites should not come forward in 'designated rural areas' which includes Areas of Outstanding Natural Beauty and other locations defined as rural in Section 157 of the Housing Act 1985.
- 6.4 The Council's two Local Plans both contain policies that provide support in principle for the development of affordable housing on exception sites in certain locations:
- SCLP5.11 Affordable Housing on Exception Sites
 - WLP8.6 Affordable Housing in the Countryside

- 6.5 The policy approaches in the two Local Plans are largely similar and set out the circumstances under which an exception site will be permitted. Exception sites may be developed and managed by community organisations (such as community led housing groups), Housing Associations or the Council.

Local need

- 6.6 The policies in both Local Plans require that there is an identified local need that cannot be met through existing housing allocations in the Local Plan or relevant Neighbourhood Plan. Policy SCLP5.11 also requires it to be demonstrated that the need cannot be met through development within the Settlement Boundary.
- 6.7 Chapter 8 provides guidance on undertaking local housing needs assessments, and this should inform the identification of need for exception sites. It is expected that the proposed development will be informed through a bottom-up approach of identifying a local need and seeking ways in which this need can be met. Speculative development, not supported by evidence of local need, will not be supported on exception sites. Local need is usually taken to be need identified within a parish boundary. There may also be occasions where an assessment of need is undertaken across more than one parish – in such circumstances it should be demonstrated how the location of the proposed development is appropriate for meeting the needs of a wider area. For example, an exception site at a large village could address needs from surrounding smaller villages.
- 6.8 The policies require applicants to consider whether the need could be met on allocated sites (or in the Settlement Boundary in the case of SCLP5.11). A link should be made with the findings of the housing needs assessment to determine whether these other options could meet the need identified. For



example, if an allocated site is not anticipated to come forward for a number of years it may not help in meeting any immediate needs identified. Opportunities in the Settlement Boundary should also be considered as part of the process of identifying a potentially suitable site for affordable housing, however it must be acknowledged that there may be few genuine opportunities for affordable housing led development as such sites may in principle come forward for market housing.

- 6.9 Need is expected to also be identified to inform proposals for entry level exception sites, in accordance with paragraph 72 of the NPPF which refers to considering whether the need is already being met within the local authority's area. For First Home exception sites, guidance set out in the Planning Practice Guidance on First Homes²⁶, and the Ministerial Statement²⁷ accompanying the PPG also suggests that needs and how they are being met should be considered at the local authority level. However, the Ministerial Statement sets out that local connection criteria may be set where this is supported by evidence of necessity and will not compromise site viability.
- 6.10 The identified need and the area it is intended to serve should help to inform the scale of the proposed development. However, a local needs assessment can over-estimate the actual needs as they may pick up an element of aspirational need and some needs identified may be met in other ways. It is therefore important that assessments are carried out by specialist independent and experienced consultants using a robust methodology.

²⁶ www.gov.uk/guidance/first-homes

Location

- 6.11 Policy SCLP5.11 requires that the scheme is adjacent or well related to an identified Settlement Boundary or a cluster of houses in the countryside. Policy WLP8.6 requires that the scheme is adjacent to Corton, a Larger Village, a Smaller Village or other rural settlements within the Countryside.
- 6.12 A 'cluster' is defined in Policy SCLP5.4 Housing in Clusters in the Countryside. The policies allow for exception sites to be developed adjacent (or well related in the case of SCLP5.11) to clusters (Suffolk Coastal) and other rural settlements in the countryside (Waveney) in acknowledgement that although these locations may not have the level of services and facilities to have a Settlement Boundary, they do in many cases function as a community and needs for affordable housing may otherwise not be able to be met. Clusters and other rural settlements in the Countryside are not listed in the Local Plans and it will need to be demonstrated why the location is considered to fall within this category and is a suitable location to support development of affordable housing, with reference to the identified local needs. Where the proposal is seeking to meet the needs identified across a number of settlements, it is expected that consideration is given to settlement size and level of service provision in identifying a suitable site (i.e. a larger settlement may be a more sustainable location than a smaller settlement).
- 6.13 Policy SCLP5.11 allows for exception sites in locations 'well related to' as well as adjacent to Settlement Boundaries and clusters. 'Well related' is not defined in the policy but it is expected that future occupants would identify with the host settlement and that suitable pedestrian/cycling access exists or can be provided to access services and facilities i.e., on an appropriately

²⁷ <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>



surfaced route and of a distance where most users could be expected to walk or cycle.

- 6.14 Not all settlements and clusters, particularly the smaller ones, will be suitable locations for an affordable housing exception site.

Housing mix

- 6.15 Policies SCLP5.11 and WLP8.6 require that the scheme incorporates a range of dwelling sizes, types and tenures appropriate to the identified local need. SCLP5.11 also requires that this includes the needs for affordable housing for older people.
- 6.16 The housing mix provided should be informed by the assessment of local needs, and it will be expected that any local housing needs survey will seek to identify the needs for specific tenures.
- 6.17 Affordable housing tenures will be expected to comply with the definitions set out in the NPPF (along with First Homes which is a new tenure established through the introduction of Planning Practice Guidance). Housing that does not fall within the definition of affordable housing will not be supported, unless proposed as part of a market housing element for viability reasons (see below).

²⁸ Suffolk Coastal Landscape Character Assessment (2018)
www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/First-Draft-Local-Plan/SCDC-Landscape-Character-Assessment.pdf
 Settlement Sensitivity Analysis Volume 1: Landscape Fringes of Ipswich (2018)
www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/Settlement-Sensitivity-Assessment-Volume-1-July-2018.pdf
 Settlement Sensitivity Analysis Volume 2: Suffolk Coastal (2018)

Character and setting of the settlement

- 6.18 Policies SCLP5.11 and WLP8.6 require that the location, scale and design standard of a scheme will retain or enhance the character and setting of the settlement. Policy SCLP5.11 also requires that it will not lead to settlement coalescence.
- 6.19 By their very nature, exception sites have a greater potential to impact on the character of the landscape due to their location on the edge of or well related to existing settlements.
- 6.20 As stated above, it is expected that the scale of a scheme will be informed by an assessment of local need for affordable housing, but it should also be informed by the location and the size and characteristics of the host settlement.
- 6.21 Consideration should be given to the Landscape Character Assessments and Settlement Sensitivity Assessments which form part of the evidence base of the Local Plans²⁸. Where Neighbourhood Plans exist, there may be further local landscape evidence and/or policies that will be relevant to consider.
- 6.22 It is expected that the design and layout will reflect the landscape character and the character of the built environment which it adjoins. Existing important landscape features such as trees and hedgerows should be retained where possible.

https://eastsuffolk.inconsult.uk/gf2.tif/1006178/53423077.1/PDF/-/D22_Settlement_Sensitivity_Assessment_Volume_2_Suffolk_Coastal_July_2018_reduced.pdf
 Landscape Character Assessment (2008) (Waveney)
www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/Background-Studies/Landscape-Character-Assessment.pdf
 Settlement Fringe Sensitivity Study (2016) (Waveney)
www.eastsuffolk.gov.uk/assets/Planning/Waveney-Local-Plan/First-Draft-Local-Plan/Settlement-Fringe-Landscape-Sensitivity-Study.pdf



Market housing

- 6.23 Policies SCLP5.11 and WLP8.6 both provide scope for an element of market housing to be provided on site where this is necessary to cross-subsidise the affordable housing. The amount proposed would need to be demonstrated to be necessary through a viability assessment. Appendix G of the Suffolk Coastal Local Plan and Appendix 5 of the Waveney Local Plan set out the requirements for undertaking viability assessment, and it is expected that this will be followed when proposing an exception site which includes an element of market housing. Whilst both policies provide for up to one third of the total dwellings to be market housing, this should be viewed as a maximum. The Council will not support any greater number of market homes than is necessary to facilitate the delivery of affordable housing. Chapter 7 provides guidance on tenure blind design, and this will apply to exception sites with an element of market housing.

Bringing forward an exception site

- 6.24 The Council's Housing Enabling Strategy sets out its commitment to supporting communities and partners in meeting local housing need. The strategy acknowledges that this may be through the identification of rural exception sites with local communities or community led housing groups, parish councils and registered providers.
- 6.25 The Council offers support to Community Led Housing groups, such as Community Land Trusts, Cohousing or Cooperative Housing Societies, in bringing forward suitable rural exception sites to meet identified local needs for affordable housing. Where community groups wish to bring

forward a development, the support offered will include early input from the planning service. Table 6.1 overleaf sets out the process that the Council would expect a community group to go through, in terms of activities that are relevant to the consideration of a planning application. The principal point of contact, other than for formal pre-application and planning application stages, is expected to be the Council's Housing Enabling Team who will co-ordinate input from other Council officers. The Council publishes its pre-application fees on its [website](#)²⁹ and may offer pre-application advice free for some affordable housing proposals (as per any details set out in the fee schedule at the time of seeking advice). Table 6.1 is directed primarily towards community led schemes and it is acknowledged that other groups such as Registered Providers may follow an approach suited to their organisation. However, early engagement with the Housing Enabling Team should take place.

Occupancy of affordable housing on exception sites

- 6.26 Affordable housing delivered as an exception site will initially be allocated to people who have a strong local and/or work connection. For rural exception sites the local connections cascade set out in the model Heads of Terms in Appendix 2 provides the basis for local connection criteria, and the cascade is expected to reflect the needs the development is seeking to meet. The model Heads of Terms set out that the local connections cascade should require a minimum period of 3 months advertising to the initial cascade. On rural exception sites, the affordable housing must be retained as such in perpetuity.

²⁹ www.eastsuffolk.gov.uk/planning/planning-applications-and-enforcement/find-out-if-you-need-planning-permission/pre-application-advice-service/



Table 6.1: Bringing forward an Exception Site – Recommended Process

Stage	Activities	Role of the Council
Identifying a local need for affordable housing	See the guidance in Chapter 8 of this SPD. Community engagement is crucial.	Housing Enabling Team able to provide guidance. Input will be sought from the Planning Policy and Delivery team and Development Management team on the process / content of proposed methods for identifying local needs, in terms of likely compliance with policies and the guidance in the SPD.
Identifying sites	An appropriate area of search should be established in which to identify potential sites. Consideration to also be given to the scale of site being sought and the type of housing it is expected to accommodate based on the housing needs survey. The Strategic Housing and Economic Land Availability Assessments, which form part of the evidence bases for the Local Plans, may provide a useful starting point along with local promotion of the search for suitable sites.	Housing Enabling Team to co-ordinate advice on potential sites from Planning Policy and Delivery team and Development Management team. This may include site visits. This should be sought at an early stage in order to inform site selection.
Proposed site – pre-application advice	It is recommended that pre-application advice be sought from Planning on the site proposed. This will enable advice to be given in relation to any outstanding concerns from the site selection process, detailed matters and the submission of appropriate information.	Development Management to provide pre-application advice in line with the provisions of the pre-application advice service ³⁰ .
Planning Application	Preparation and submission of a planning application for the proposed development site. If there has been significant pre-	Planning application to be submitted to and considered by Development

³⁰ www.eastsuffolk.gov.uk/planning/planning-applications-and-enforcement/find-out-if-you-need-planning-permission/pre-application-advice-service/



	application engagement, as set out above, a detailed planning application rather than outline may be the most suitable route. The detailed process is explained on the Council's website ³¹ .	Management. The planning application may be determined by Planning Committee. The Housing Enabling Team is a consultee on planning applications.
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³¹ www.eastsuffolk.gov.uk/planning/planning-applications-and-enforcement/planning-application-process/

7. Design

Key Local & National Policies

Suffolk Coastal Local Plan (2020) polices:

- Policy SCLP5.8: Housing Mix
- SCLP11.1 Design Quality
- SCLP11.2 Residential Amenity

Waveney Local Plan (2019) policies:

- WLP8.29 Design
- WLP8.31 Lifetime Design
- WLP8.32 Housing Density and Design

NPPF (2021) Chapters

- 8, 12



7. Design

Design: a strategic priority

7.1 The design quality of the district’s housing stock and the neighbourhoods within which they sit is important for achieving the respective visions and strategic priorities of the two Local Plans. The Local Plans’ respective design policies are intended to help deliver the ambitions of the strategic priorities which seek to achieve well-designed built environments. The relevant strategic priorities of the two Plans therefore form the fundamental objectives of the Local Plans’ key design policies, acting as ‘golden threads’ running through them. The strategic priorities relevant to the design of residential developments are broadly the same across both Plans, and can be summarised as:

- To support healthy, safe, cohesive, and active communities through improving health, wellbeing and education opportunities for all.
- To enhance and protect the natural, built and historic environment and provide accessible green infrastructure and public open spaces.
- Enhance the vitality and viability of town centres and villages.
- Promote high quality design and significantly improve the quality of urban design across the Local Plan areas; and
- Mitigate human impact on the environment and reduce contributions to climate change and conserve natural resources.

7.2 The design policies set out the overall level of design quality that the Council would expect when assessing planning proposals for housing and housing-led developments.

7.3 Between them, the Local Plans aim to deliver over 20,000 dwellings throughout the plan period to 2036. It is anticipated that a significant amount of these dwellings will be affordable homes, and it is equally important that these homes are well-designed in terms of their overall material quality, appearance, size, usability for the needs of their resident households, and their relationship with the overall site, its community infrastructure (green and blue infrastructure, any communal facilities, shops and services within the development, etc.), and the wider environment.

What is good design?

7.4 ‘Good’ design in the built environment can mean different things to different people, particularly from an aesthetic perspective. However, usability for its intended purpose by its intended users, and the designing-in of resilience for meeting future needs, challenges and change are universal fundamental principles of sustainable, good design.

7.5 A good design approach therefore starts with how spaces and buildings are intended to feel and function for the people that live, work and play in them to optimise their experience (health and wellbeing) and productivity (ability to carry out intended functions). Design decisions shape places, spaces and lived experiences at all scales of development – from the decision to increase a dwelling’s internal space to accommodate a dining area large enough to seat the whole family, right up to the creation of a network of high-quality cycling and walking routes for a new community that facilitates safe cycling to work, school, and to important local services.



7.6 The design of places and spaces therefore has a significant impact on the lifestyles, health, wellbeing and overall quality of life available to everyone that lives in, works in and regularly visits them. It is well understood that the quality of a person’s housing and the neighbourhood within which it sits are important determinants of their physical and mental health. From the immediate day-to-day impacts on their body and mind such as the ability to access a healthy diet, physical activity, their level of car dependency, pollution exposure, social interaction/isolation, etc, to their overall ability to live a socially, environmentally, and economically sustainable, and active lifestyle. Everyone benefits from raising the general levels of population health and community interactivity within and across neighbourhoods – and good design supports this by default.

7.7 Good design is an art, and therefore there is no ‘one size fits all’ definition of how it will look and function on every site, at all scales and in all settings.

7.8 The Local Plans’ design policies, along with other guidance such as that contained in Development Brief SPDs, set out the Council’s expectations for proposals to achieve high standards of design. Paragraph 134 of the 2021 National Planning Policy Framework (NPPF) states:

“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes;

and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”.

7.9 This chapter of the SPD therefore provides guidance on the key design policies that determine what the Council would support as an appropriate and high-quality approach to the design of mixed-tenure or exclusively affordable housing residential development.





- 7.10 This chapter’s key message is that the Council expects the same high quality of design regardless of tenure type and expects the affordable tenure element of a mixed-tenure scheme to be indistinguishable from the market tenure element.
- 7.11 The Council also expects site layouts and community facilities and amenities (i.e. shared at site-level, such as communal parking areas, green/blue infrastructure, children’s play areas, trim trails/outdoor gyms, bin storage areas, etc.) to be designed for fair and equal access for all tenures included on site. Together this approach is referred to throughout this document as ‘**tenure-blind design**’.
- 7.12 The key design policies are listed at the start of this chapter, however, both of the Local Plans feature other more ‘general’ policies that inform how residential development should be designed (some varying according to the scale of the development), and therefore should also be given regard to. These more general design policies relate to designing for sustainable transport, sustainable construction, parking standards, open space provision and retaining landscape character – all of which must apply equally regardless of tenure. Site allocation policies will often also include site-specific design criteria. Where relevant to residential design, the Council expects the criteria to be met in accordance with the tenure-blind design principles outlined in this chapter.

³²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962113/National_design_guide.pdf

Tenure-blind design: policy context

- 7.13 The NPPF calls for planners and decision-makers to ensure that, amongst other considerations, development produces healthy, inclusive and safe places, stating the importance of creating:

“...places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience” (paragraph 130 (f)).

- 7.14 Like the Local Plans, the NPPF should be read as a whole. However, the Chapters most relevant to residential design for healthy communities are:
- 8 Promoting healthy and safe communities
 - 9 Promoting sustainable transport
 - 12 Achieving well-designed places

The [National Design Guide](#)³² directly supports tenure-blind, or here referred to as ‘tenure neutral’, design under paragraph 116, which states that mixed-tenure developments can be considered well-designed when “...they are well-integrated and designed to the same high quality to create tenure neutral homes and spaces, where no tenure is disadvantaged”.

- 7.15 Tenure-blind design is also referred to directly in the First Homes Planning Practice Guidance (PPG), paragraph 6, which reads “*First Homes should be*



physically indistinguishable from the equivalent market homes in terms of quality and size”.

7.16 Tenure-blind design is directly required in Local Plan policy through the following three key design policies:

- Policy SCLP11.1 Design Quality
- Policy WLP8.2 Affordable Housing
- Policy WLP8.29 Design

7.17 Policy WLP8.2 Affordable Housing, amongst other policy criteria, states that in the Waveney Local Plan area:

“...affordable housing should be indistinguishable from market housing in terms of the location, external appearance, design, standards and build quality and should meet all requirements of the design policies”

7.18 Policy SCLP11.1 Design Quality requires tenure-blind design by referring the reader to the Building for a Healthy Life guidelines (formerly Building for Life 12), which in turn advises that, in order to earn a ‘green’ (positive) score, the development should constitute:

“...homes and streets where it is difficult to determine the tenure of properties through architectural, landscape or other differences”; “apartment buildings might separate tenure by core but each core must look exactly the same” (p.35).

7.19 The policy context clearly sets out how ‘tenure-blind design’ can be understood and applied. Therefore, any level of distinction or inferior

specification used in the shell or plot design, or disadvantage caused by the overall site design or layout should be avoided.

7.20 The main design policies of both Local Plans (Policy SCLP11.1 Design Quality and Policy WLP8.29 Design) each make direct reference to the Building for Life 12 design guide, which was intended to be used by developers of major residential development proposals to inform good design approaches, and to help give structure to design discussions between local communities, local planning authorities, developers and other stakeholders. It also facilitated the post-delivery assessment of developments against the twelve design criteria questions, with developments that scored positively made eligible to receive (and to market that they had received) the ‘Built for Life’ quality commendation.

7.21 However, this has since been updated and superseded by [‘Building for a Healthy Life: A Design Toolkit for neighbourhoods, streets, homes and public spaces’](#) (2020)³³ guidance. This document is applied by the Council for informing the assessment of design quality in major residential proposals and for recommendations at the pre-application advice stage in accordance with paragraph 133 of the NPPF. As this document has replaced Building for Life 12, references in the design policies to Building for Life 12 are to be taken to be references to Building for a Healthy Life.

7.22 The Building for a Healthy Life guidelines similarly score identified indicators of design quality, though with an updated emphasis on the facilitation of a healthy life as the overall objective of good design. As with Building for Life 12, if the development scores a sufficiently high overall score it can be

³³ www.udg.org.uk/publications/othermanuals/building-healthy-life



awarded a Building for a Healthy Life (BHL) Commendation, which can be used as a quality mark to market to prospective buyers and occupiers.

- 7.23 Other Supplementary Planning Documents that the Council has prepared may also provide guidance, where relevant to the design of affordable housing. These include Development Brief Supplementary Planning Documents (being prepared for some sites allocated in the Local Plans), the Historic Environment Supplementary Planning Document (2021), the Sustainable Construction Supplementary Planning Document (2022) and the Healthy Environments Supplementary Planning Document (under preparation).
- 7.24 Many Neighbourhood Plans also have policies relating to design which would apply to proposals involving affordable housing.
- 7.25 The forthcoming Suffolk Design Guide and the Suffolk Design for Streets Guide are relevant for the consideration of design matters at street, site, and neighbourhood scale. The Council is also preparing an East Suffolk Cycling and Walking Strategy, which identifies important strategic and local level improvements to facilitate the further uptake of cycling and walking as a form of sustainable transport for commuting, essential and leisure trips, and to improve the safety, comfort, and enjoyment of these trips.
- 7.26 A number of other local and national documents are relevant when considering the design of residential development, such as the National Design Guide³⁴. There are also other civil society guidelines and certification schemes which support the delivery of good design principles, such as The

³⁴ www.gov.uk/government/publications/national-design-guide

³⁵ www.qolf.org/

[Quality of Life Framework](#)³⁵ (2021) and the [Building with Nature Standards](#)³⁶.



Tenure-blind design: key design principles

- 7.27 The Council expects tenure-blind design in all design aspects of the elevations and plot, and in access to the property.
- 7.28 Tenure-blind design does not mean that all units on a site need to look the same. Together with a suitably size-varied housing mix, the Council encourages designers to consider their site’s potential to take on a variety of different elevation and plot morphologies – styles, materials, shapes, heights and densities – and to create distinctive character areas within sites that relate well to each other and the overall form and layout of their

³⁶ www.buildingwithnature.org.uk



surroundings. The key is for equivalent size dwellings of different tenure types within a design typology present on site to look the same.

Tenure-blind design: shell and plot considerations

7.29 Tenure-blind design principles applied at ‘shell’ (i.e. the building itself) and plot level is critical to achieving socially sustainable development. However, tenure-blind design should not be limited to the appearance or size of units’ shells or plots – there are other physical elements that can also indicate tenure type.

To successfully achieve tenure-blind design at both the shell and plot level, the Council would expect to see:

- Comparable overall sizing of dwellings. For dwellings intended for affordable rent tenure, the internal sizing of bedrooms and the dwelling’s layout should maximise the number of people that can be housed (e.g. an affordable rent two bedroom dwelling can house four people; an affordable rent three bedroom home can house five or six people, and so on), to provide flexibility on family size occupying the property. If affordable dwellings are proposed to be smaller than equivalent market dwellings the applicant will be expected to demonstrate why this is appropriate. Floorspace measurements on a plot by plot and tenure by tenure basis are expected to be submitted with a planning application; reference to the Nationally Described Space Standards in the design and submission of plans is encouraged.
- Consistent application of decorative elements of the design and materials - such as finials, brickwork or boundary treatments – rather than it being limited to ‘core’ design elements such as window types used;

- Consistent sizing and treatment of residential garden space and landscaping;
- Where on-plot parking (i.e. off-street) is provided, affordable dwellings’ parking provision has regard to the Suffolk Guidance for Parking (as per Policies SCLP7.2 and WLP8.21);
- Apartment blocks that are mixed-tenure, rather than single-tenure, are preferred where this can be accommodated, though it is understood that some Registered Providers are less willing to take on mixed-tenure apartment blocks;
- Where provided, mixed-tenure apartment blocks should have a shared entrance and core (shared internal areas such as stairwells), rather than separate entrances and cores according to tenure-type. Individual front doors at street level can also provide both visual and social benefits. Where a shared entrance and/or shared core have not been possible, the entrances and cores are expected to look the same as the other tenure’s entrance and core. The design approach to separate entrances should not be limited to just the doors of the entrance, but should include equalising other entrance elements used such as (as applicable) the use of shelter, lighting, surfacing materials, and any landscaping/planting used around it or along the path approaching the entrance.

Internal space

7.30 Another general design consideration for residential development is the impact of internal size, layout, fittings, storage and the extent of designed-in space flexibility for future occupants; these considerations are particularly relevant to future occupants that will be renting their home, as they may have been limited in their initial choice of rental property



and then are limited in their ability to change, customise or extend the property's internal space post-occupation.

7.31 Available internal space, the quality of the space for its intended function(s), and how flexible the space is for different uses can have a big impact on health, wellbeing and relationships within households. For example, a very small kitchen will make preparing family meals from scratch difficult. Similarly, a lack of internal living space can mean that a family are unable to eat together at a table, so instead eat separately, and may choose to eat sat in front of a television ('distracted eating' has been linked to higher caloric intake). Regarding employment and education opportunities, not having a dining or other suitable study area may rule out working from home for the household's adult(s), and smaller bedroom sizes that exclude the fitting of a study desk may mean the household's children have nowhere suitable and quiet to complete their homework. In terms of sustainable lifestyles, poor design may also mean, particularly if teamed with a lack of external space provision, that the household have nowhere to store bicycles, precluding them from participating in regular cycling despite its benefits for the health of people and planet. The internal size and layout of proposed residential units will therefore be assessed in terms of whether they are reasonable and conducive to a home that supports good health and quality of life. The internal size, layout and specification (i.e. fixtures and fittings) are recommended to be discussed at an early stage with Registered Providers that may be interested in purchasing the dwellings.

7.32 Increased internal space doesn't just mean a separate playroom, more storage or a better kitchen, it can also increase the property's accessibility. People with reduced mobility are particularly vulnerable to low-quality design. Accessibility for people using a wheelchair or walking aid is increased when internal dimensions allow for turning circles, use of appliances (e.g. accessing the oven) and transitions throughout the rooms and floors (where applicable) of the dwelling. The Local Plan policies SCLP5.8 and WLP8.31 require a stated proportion (50% & 40% respectively) of dwellings to be built in accordance with Part M4(2) 'accessible and adaptable dwellings standards' of the Building Regulations, which include minimum internal dimensions to future-proof homes and allow safe movement, (and the designing-in of space flexibility for necessary subsequent adaptations) for occupants should they need adaptations to the dwelling for wheelchair accessibility in the future (for example, in multiple storey properties, internal space made available for the later fitting of a lift).





7.33 Private external space was also evidenced to have been a huge asset for people’s health and wellbeing during the Covid-19 pandemic - even if it was just having their own private balcony. Where the provision of even a minimal appropriate amount of external private space is not possible, the provision or improvement of high quality public green space and semi-private community green spaces (such as allotment sites or community gardens) may go a long way towards improving the quality of life for those without private external space access.

Tenure-blind design: site-level

7.34 Tenure-blind design also requires regard to off-plot, site-level design elements that may otherwise indicate the property’s tenure. Consideration should therefore be given to the inclusivity of the layout and function of the site as a whole, avoiding imbalances that may unreasonably impact the experience of living there for affordable housing occupiers (such as placing all of the affordable housing along the site’s main vehicular access route). Consideration should also be given to how the site integrates into and enhances the inclusivity and functionality of the existing surrounding built environment, and wider settlement and landscape in which it is located or is adjacent to.

To achieve tenure-blind design at site level, the Council would expect to see:

- Well integrated and fairly distributed morphologies and densities present on the site across the different tenure types – key questions: has one tenure been exclusively represented, or relatively over-represented in any one morphology present on site? Has a different materials palette been used exclusively for a single tenure type? Has a disproportionate number of higher-density units been proposed as affordable dwellings?

- Proportionate clustering of affordable housing – non-contiguous clusters of up to 10 affordable dwellings are generally considered an appropriate maximum to support the creation of diverse and inclusive communities.
- A layout which means that exposure to potential environmental stressors (such as noise/vibration from roads or railway lines, air and light pollution reduced privacy from overlooking, etc.) will not disproportionately impact affordable housing occupants (more generally, it would be expected that the potential impacts of the identified stressor would be adequately mitigated for all users of the site). Similarly, the Council would expect affordable housing to be distributed throughout the site in a way that meant affordable housing occupants were not in any way disadvantaged in their access to residential amenities (children’s play areas, green space, communal parking areas, etc.);
- Where communal parking areas are provided instead of on-plot parking spaces, the affordable dwellings have parking provision access consistent with the current revision of the Suffolk Guidance for Parking. An overall approach to movement throughout the site is expected to be consistent with policies SCLP7.1 Sustainable Transport, SCLP7.2 Parking Proposals and Standards, and WLP8.21 Sustainable Transport, regardless of tenure;
- Where other communal site facilities such as bin storage areas, visitor cycle parking, electric vehicle charging points etc. are provided, affordable homes are expected to be located within reasonable and convenient reach of them;



- Consistent access to on-site green infrastructure and sustainable transport infrastructure (including walking and cycling), across market and affordable tenures;
- Consistent quality, nature, size and proximity of open spaces and children’s play spaces across tenures;

Housing mix: sizes and types

- 7.35 Together with achieving the appropriate tenure split, new housing development is expected to deliver a mix of housing sizes (number of bedrooms) and in some cases, types, such as housing built to M4(2) ‘accessible and adaptable dwellings’ standard, or M4(3) ‘wheelchair user dwellings’ standard, as per Part M of the Building Regulations (where required by the Council).
- 7.36 Residential development proposals for specialist accommodation will also be supported by the Council, in accordance with identified housing need in the Strategic Housing Market Assessment or latest equivalent assessment of the housing area (see Chapters 3 and 8). Affordable specialist accommodation schemes (including those falling under C2 use class) may come forward as part of a wider scheme of either (market) specialist or a mix of specialist and non-specialist accommodation, or could potentially come forward solely for affordable specialist housing. Where part of a mix, as far as is practicable tenure-blind design principles should apply to specialist accommodation, although it is acknowledged that regardless of tenure specialist accommodation may for functional reasons need to look different to non-specialist accommodation.
- 7.37 The Housing Mix policies of both Local Plans encourage a focus on developing smaller dwellings, which are stated as being one and two bedroom dwellings. Though this is intended to help to meet the needs of

older people (who typically form one or two person households, and typically wish to downsize from larger family homes), smaller units can also meet the needs of other households such as sharers (small House in Multiple Occupation properties) and households without dependent children.

Housing mix: achieving appropriate density across tenure types

- 7.38 A key consideration regarding density and affordable housing, is to ensure that, where multiple levels of density co-exist on a site, a tenure type present on site is not easily identified by being exclusively at one density (for example, all of the highest-density apartment blocks on the site are exclusively affordable) or significantly concentrated at one density (i.e. most of the apartment blocks). It should be ensured that not only are a mix of sizes (number of bedrooms) well distributed across different tenures, but also different densities, where multiple density levels occur on a site.

Designing for accessibility, adaptability and dementia friendly design across all tenures

- 7.39 Accessibility can be considered under two main categories - within the home and out in the public realm. Within the home, Parts M4(2) and M4(3) of the Building Regulations set out standards for achieving accessible and adaptable dwellings and wheelchair user dwellings, respectively.
- 7.40 The Local Plans include a requirement for at least 50% (SCLP5.8) / 40% (WLP8.31) of all dwellings to be built to Building Regulation M4(2) ‘accessible and adaptable dwellings’ standards on sites of 10 or more dwellings. Under Suffolk Coastal Local Plan policy SCLP5.8 all specialist dwellings must meet M4(2) standards. Chapter 3 ‘Identifying an appropriate



mix of affordable housing’ provides further guidance on achieving Part M4(2) ‘accessible and adaptable dwellings’ and Part M4(3) ‘wheelchair user dwellings’ compliance.

- 7.41 Fundamentally, building to M4(2) standard makes the transitional areas (hallways, stairs, doorways, the area around the bed in bedrooms, around kitchen units and appliances in kitchen areas, and spaces within bathrooms) larger, and the approach route, car parking/drop-off area, private entrance or communal entrance and lifts (where applicable) more suitable for those with reduced mobility. M4(2) standard homes also facilitate adaptation of the home to become suitable for wheelchair users should they need this level of accessibility in the future. M4(3) standard homes are designed to meet the needs of current wheelchair users.
- 7.42 It is expected that the tenure split of dwellings to be delivered to M4(2) standards between market and affordable, and between home ownership and rental homes, will reflect the context that disabled people are more likely to rent affordable housing and are less likely to own their own home than non-disabled people³⁷. It is therefore expected that a higher proportion of the M4(2) homes required to be delivered on site will be allocated to affordable housing, focusing in particular on affordable rental tenures. As with the mix of sizes (number of bedrooms) and types (houses, flats, etc.) required on site, engagement with the Council’s Housing Enabling team on the priorities for M4(2) dwellings on sites are as per current housing need is highly encouraged. Regardless of tenure type, all specialist dwellings in the Suffolk Coastal Local Plan area as per Policy SCLP5.8 will be

expected to meet the requirements for the M4(2) ‘accessible and adaptable dwellings’ standards.

- 7.43 Both Local Plans recognise that the population of the district is ageing, and the district’s need for affordable housing is not limited to younger or working-age people. Policy SCLP5.10 therefore specifically states that affordable housing delivered on residential sites should meet local needs including those of older people.
- 7.44 In terms of accessibility in the public realm, the policies of the Local Plans (principally SCLP11.1 Design Quality and WLP8.31 Lifetime Design) expect that new development will adopt the principles of dementia-friendly design, and these principles apply equally to the public realm around and accessibility to affordable housing as they do to market housing. Proposals should create permeable and legible developments which are easily accessed and used by all, regardless of age, mobility and disability, across all tenures. All proposals should demonstrate that the design supports the needs of older people and those with dementia through the adoption of dementia-friendly design principles. All housing developments of ten or more dwellings in the Suffolk Coastal area are also expected to demonstrate how they will contribute to meeting the needs of older people, regardless of tenure type.

³⁷According to Office for National Statistics data on disability and housing (released 10 February 2022), nearly 1 in 4 (24.9%) disabled people aged 16 to 64 years in the UK rented social housing compared with fewer than 1 in 10 (7.9%) non-disabled people; they were also less likely to own their own home (39.7%) and less likely to live with parents (16.4%) than non-disabled people

(53.3% and 19.2% respectively) (year ending June 2021). Dataset available at: www.ons.gov.uk/releases/outcomesfordisabledpeopleintheuk2021.



Designing according to developable area and appropriate density

- 7.45 All residential development at the scale thresholds set in Policy SCLP5.10: Affordable Housing on Residential Developments (development with capacity for 10 units or more, or sites of 0.5ha or more) and Policy WLP8.2 Affordable Housing (sites with a capacity of 11 dwellings or more) are expected to develop the site at an appropriate density (for the location and to meet the needs of the intended occupants) and to make the most efficient and effective use of the site. Inefficient use of land to deliver development below the threshold for affordable housing will therefore not be supported.
- 7.46 Paragraph 5.66 in the Suffolk Coastal Local Plan states that in determining whether a site has capacity for more than ten units, consideration will be given to the potential developable area of a site and an appropriate density for development that accords with Policy SCLP11.1 Design Quality.
- 7.47 Policy WLP8.32 Housing Density and Design states that development should make the best use of a site in a manner that protects or enhances the distinctiveness and character of the area and takes into account the physical environment of the site and its surroundings. Development proposals in and adjacent to the built-up area of Lowestoft and the market towns should aim for urban scale development at a density of at least 30 dwellings per hectare, unless local character indicates otherwise. Some of the site-specific policies within the Waveney Local Plan specify a dwellings per hectare figure within the policy wording.
- 7.48 Where an applicant expects the delivery of a development to come forward in phases, it is expected that the intentions for the future phases of the site

will be clearly set out. Land parcels should not be divided to avoid triggering the requirement for affordable housing.

Layout: distribution of affordable homes

- 7.49 Affordable housing is usually delivered in clusters, which is understood to be important for operational and management reasons. However, this needs to be balanced with the ambition to create inclusive and socially sustainable developments that help to build communities by supporting increased social interaction across different groups. A cluster of affordable housing in this context is considered by the Council to be a group of up to ten affordable dwellings with no ‘gaps’ created by green/open space, land in other uses, or market tenure homes in between, and is not contiguous with another cluster.
- 7.50 Clustering is covered in the Building for a Healthy Life guidelines, which both Local Plans’ respective main design policies make reference to. The Building for a Healthy Life guidance describes “affordable homes that are distributed across a development” (‘pepper-potting’) as positive, and “grouping affordable homes in one place (except on smaller developments)” as negative.
- 7.51 ‘Pepper-potting’, be it the scattering of individual dwellings or of clusters of up to ten dwellings, is considered to be the best approach to affordable housing distribution for supporting health, well-being and social cohesion, and meeting the needs of Registered Providers. This approach helps to ensure affordable tenures are not over-represented in any one area of the site (except on small sites), and that clusters are not contiguous with each other.



Sustainable construction

- 7.52 Affordable housing units are expected to be built to the same levels of sustainable construction and energy efficiency through sustainable construction methods as market value units; all elements of both Local Plans' sustainable construction policies (Policy SCLP9.2 and Policy 8.28) apply regardless of tenure type.
- 7.53 Designing for year-round solar gain and solar shading helps to ensure that homes are warmer in the winter and cooler in the summer, and if teamed with high-quality insulation materials and installation methods, will retain a more constant temperature, therefore lessening the need for central heating use, thus lowering the household bills of future occupants. Whilst this is important for housing of all tenure types, this is a particularly pertinent consideration for affordable housing units as it has the potential to significantly reduce energy costs for those most in need of reduced household bills.



- 7.54 The cost and energy efficiency of affordable homes may also benefit from modern methods of construction to produce sections of the building's shell

off-site under factory conditions that can then be assembled on site, at a lower cost and level of embodied carbon than a traditional build. This may also have the added benefit of making it easier to achieve higher levels of air tightness and energy and sound insulation than traditional on-site construction, providing multiple operational benefits to Registered Providers and future occupants of the homes.

- 7.55 More information on sustainable construction methods that are encouraged by the Council to meet the energy efficiency policy criteria set is available in the Council's Sustainable Construction Supplementary Planning Document.

Exception sites: affordable housing in the Countryside

- 7.56 Chapter 6 sets out more detailed guidance on the principle of and evidence behind bringing forward affordable housing on exception sites.
- 7.57 Regarding the design of exception sites, the Local Plans both have Settlement Hierarchy policies that differentiate between settlements that are considered to be able to support further residential growth in principle, and those that cannot. The categorisation process was undertaken in accordance with the level of services, facilities and infrastructure that the settlements had been identified as having at the time the two Local Plans were being prepared; this meant that not all recognisable settlements were given policy-defined Settlement Boundaries. The Local Plans define all land outside of defined Settlement Boundaries as the 'Countryside', which has the effect of substantially reducing the scope for housing development to be considered acceptable in planning terms in these areas. One of the potential exceptions to this is for affordable housing schemes which may be able to be delivered in the



Countryside under limited circumstances. The limited circumstances are set out in the respective policies (Policy SCLP5.11 Affordable Housing on Exception Sites and Policy WLP8.6 Affordable Housing in the Countryside) and the NPPF.



7.58 Policies SCLP5.11 and WLP8.6 expect that exception sites will retain or enhance the character and setting of the settlement. Because these sites would be located in the Countryside (i.e. outside of Settlement Boundaries), the design of such development will need to be appropriate and sensitive to the Countryside location and have a design relationship with the character of the built form of the adjacent settlement or housing cluster.

7.59 The design should therefore be appropriate to the character of existing buildings in the adjacent settlement through the use of appropriate materials, heights, proportions, density and detailing. The respective

Landscape Character Assessments³⁸ that have been produced to accompany the two Local Plans will be useful reference sources in considering the impact on the setting of the settlement. The Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) [Guidance on the Selection and Use of Colour](#)³⁹ document should also help to inform the design of affordable housing for sites within the AONB.

7.60 The scale of an exception site should also be appropriate to its location. Exception sites should be of a scale that is both reflective of the local housing need and appropriate to the character and scale of the settlement. The exception site should represent planned incremental growth and not dominate the existing settlement. Exception sites should also not lead to coalescence or the perception of coalescence between two settlements.

7.61 On mixed-tenure schemes where a minor element of market housing has been included to cross-subsidise the affordable homes being delivered, the market element should be subordinate in scale to the amount of affordable housing. For the avoidance of doubt, where mixed-tenure sites are considered appropriate on exception sites, the Council expects the development to be tenure-blind in design and appearance.

7.62 Policy SCLP5.11 Affordable Housing on Exception Sites also provides opportunities for the delivery of affordable specialist accommodation on sites outside of but adjacent or well related to Settlement Boundaries.

7.63 Neighbourhood Plans, where they are in place, may contain design policies that would be relevant to the design of an exception site.

³⁸ Available at www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/local-plans/local-plan-evidence-base/

³⁹ www.suffolkcoastandheaths.org/managing/planning/guidance-for-planning-in-the-aonb/

8. Local Housing Needs Assessments





8. Local Housing Needs Assessments

- 8.1 Policies SCLP5.11 and WLP8.2 of the Local Plans are centred upon supporting affordable housing proposals as exceptions to usual planning policy for housing, where this is to meet a local need for affordable housing. Crucially the starting point must therefore be understanding what the local need for affordable housing is, as this will inform the location, scale and tenure of affordable housing. The Council will expect to see that a robust assessment of local need has been undertaken in accordance with the principles and guidance set out below.
- 8.2 Local housing need assessments may also be relevant to other developments of affordable housing, or for example to Neighbourhood Plan groups in preparing policies on affordable housing, and therefore the guidance in this section of the SPD is not limited to exception sites. Where affordable housing is required as part of a residential development it is not necessary for this to be evidenced by a local housing need assessment where a proposal is policy compliant, however where one exists it may help to inform the tenure and mix of affordable housing provision.

Data and information sources

- 8.3 It is first necessary to define the area where the need for affordable housing is being assessed. In most cases this is likely to be the parish, however, this may extend to a group of parishes for example where a single parish is too small or a group of parishes have a close functional relationship.
- 8.4 An assessment of local housing need should be based on the collection of primary data. One method for undertaking this would be through the distribution of surveys to households within the defined area,

however, regardless of the exact method, meaningful engagement with the community is critical. Surveys should address the following:

- They should seek to identify *needs* (as opposed to views or preferences) for the amount and also different tenures and sizes of affordable housing arising from households within the area, taking account of household incomes and the ability to afford market housing or affordable, low cost home ownership tenures.
 - Needs for specialist forms of affordable accommodation, such as sheltered or extra care units, and the needs of older people should also be assessed. This is particularly important in the Suffolk Coastal Local Plan area where the policies expect that the needs of older people are provided for.
 - The potential for affordable needs to be met by self or custom-build housing should also form part of the survey where a self or custom build affordable housing development is being considered.
 - The assessment should also seek to identify the timescales over which such needs are likely to arise.
 - Specialist independent and experienced consultants should be engaged to carry out housing needs assessments.
- 8.5 The Council’s Housing Register (Gateway to Homechoice) is a choice-based lettings system whereby applicants bid to show their interest in a particular property. Data extracted from Gateway to Homechoice will show the number of applicants who have a local connection to a particular parish. However, this may not show the true number of applicants who wish



to live in the parish as applicants may seek to live elsewhere in the district or not feel it worth their while in applying.

- 8.6 The data should be up to date at the point at which a planning application is submitted. Up to date is considered to be data which has been gathered in the last 5 years. The older the data, the more likely that circumstances will have changed which could lead to issues further down the line for example in eligible occupants coming forward.

Applying the results

- 8.7 The need identified should be used to inform, rather than dictate, a proposed development. It isn't necessary to bring forward a development that equates precisely to the need identified – it may be that the precise needs change over time or are met in other ways. The data should provide a robust indication of the scale of need, but consideration will also need to be given to other factors such as landscape impact and availability of sites. In terms of mix, the data should provide an indication of the proportion of different tenures and sizes that are likely to help to meet the needs identified.

9. Viability Assessments



Key Local & National Policies

Suffolk Coastal Local Plan (2020) polices:

- SCLP5.10 Affordable Housing on Residential Developments

Waveney Local Plan (2019) policies:

- WLP8.2 Affordable Housing

NPPF (2021) Paragraphs

- 58



9. Viability Assessments

- 9.1 The Council's Local Plans have both been subject to Whole Plan Viability Studies as part of their production, and the policies in the Local Plans can therefore be considered to be viable to deliver. In accordance with paragraph 58 of the 2021 National Planning Policy Framework (NPPF), if an applicant considers that a proposed development is not viable whilst meeting the policy requirements for affordable housing it will be up to the applicant to demonstrate that this is the case to the satisfaction of the Council.
- 9.2 In accordance with the policies, the Council will only accept a reduction in affordable housing provision in exceptional circumstances and where demonstrated by a viability assessment. Under Policy WLP8.2, permission will only be granted for reduced affordable housing provision on sites which are necessary to the overall supply of housing in the district unless the scheme has wider sustainability benefits. This essentially means that sites which are not allocated for development or do not make up part of the five year supply of housing will not be supported unless they can provide a policy compliant amount of affordable housing, regardless of viability issues, unless there are overriding sustainability benefits that the Council consider would justify supporting.
- 9.3 In the Suffolk Coastal Local Plan area, reflecting the outputs of the Whole Plan Viability Study, Policy SCLP5.10 does not require any affordable housing provision on sites which are solely brownfield flatted development. Whilst solely flatted developments will be an appropriate

approach on some brownfield sites, the Council will expect that consideration is given to planning an appropriate mix of housing, based on the context of the site and the Council's policies on housing mix and design, and that the starting point is not the avoidance of affordable housing provision.

- 9.4 Appendix G of the Suffolk Coastal Local Plan and Appendix 5 of the Waveney Local Plan set out the requirements for undertaking viability assessments. The Council's [Local Validation List](#)⁴⁰ also sets out what the Council expects to be submitted where applicants are submitting a viability assessment.
- 9.5 Where an applicant puts forward a case to vary the amount of affordable housing provision, the Council will expect that consideration is initially given to varying the tenure and/or reducing the number of affordable units, rather than the provision of zero affordable units, and that maximum affordable value possible is achieved.

⁴⁰ www.eastsuffolk.gov.uk/planning/planning-applications-and-enforcement/how-to-submit-a-planning-application/

10. Vacant Buildings Credit

Key Local & National Policies

NPPF (2021) Paragraphs



10. Vacant Buildings Credit

- 10.1 Paragraph 64 of the 2021 National Planning Policy Framework (NPPF) states that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount. Footnote 30 of the 2021 NPPF explains that this is equivalent to the gross floorspace of the existing buildings and that it does not apply to vacant buildings that have been abandoned.
- 10.2 The vacant buildings credit policy is a material consideration which must be considered in the determination of planning applications. Vacant building credit will only be applied where the building has not been abandoned and has not been demolished prior to the date when an application has been validated.
- 10.3 The Planning Practice Guidance on Planning Obligations provides guidance on the Vacant Buildings Credit. The PPG does not however provide a definition of “vacant building” so the Council will apply the Community Infrastructure Levy definition, which is a building that has not been in continuous use for any 6 month period during the last 3 years. The whole building must have been vacant, not just a single planning unit or part of the building. The building must be vacant at the time the application is validated.
- 10.4 The purpose of the Vacant Building Credit is to incentivise the development of brownfield land. It will therefore not apply in situations where there is a valid live consent on the site, where consent has recently lapsed, or where a site has had an application considered since the introduction of the guidance in the Planning Practice Guidance and the vacant buildings credit was not sought.
- 10.5 The PPG on Planning Obligations explains that 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; and
 - any evidence regarding the owner’s intention
- 10.6 The national guidance does not specify how to calculate floorspace. For consistency Gross Internal Area (GIA) will be used for both vacant and proposed floorspace. An example calculation is included in Appendix 3.
- 10.7 The NPPF definition of exception sites are those of small scale where the principle of market housing wouldn’t ordinarily be accepted and the policies in the local plans (SCLP5.11 and WLP8.6) provide for such sites to come forward to meet locally identified needs for affordable housing that otherwise would not be met. Therefore, the vacant buildings credit should not be applied in circumstances where this would result in no affordable housing being provided on an exception site. Where the cost of redeveloping a vacant site to be used as an exception site would make the delivery of solely affordable housing unviable, Policies SCLP5.11 and WLP8.6 provide for some market housing to form part of the mix to cross-subsidise the affordable housing provision.
- 10.8 Applicants who consider that their proposals are eligible for vacant buildings credit should set out their evidence in a Vacant Buildings Credit Statement as part of their planning application. The information that should be contained in the statement is set out at Appendix 3.



10.9 If development viability remains an issue following application of the vacant buildings credit (see Chapter 9) then a viability appraisal would need to be submitted if a further reduction in the provision of affordable housing is sought. It should reflect the impact of vacant buildings credit and would need to demonstrate why the net affordable housing requirement cannot be met.

Community Infrastructure Levy

10.10 Existing 'in-use buildings' act as a credit on the 'chargeable development' Community Infrastructure Levy charge. Each square metre of existing building on the site, reduces the CIL by one square metre. The CIL Regulations define the credit as applying to 'in-use buildings' and buildings meet this definition if they are:

- I. present on the day that planning permission first permits the development; and
- II. 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.

10.11 The day planning permission first permits the chargeable development is the day the last reserved matter is approved (unless the applicant and the local planning authority agree to defer until pre commencement conditions are discharged). Applicants should not seek to claim 'in use' buildings for CIL

credit, while at the same time proposing they are vacant for the benefit of vacant buildings credit.

11. Community Infrastructure Levy





11. Community Infrastructure Levy

- 11.1 The Community Infrastructure Levy (CIL) is a charge on certain specified developments to help to deliver the infrastructure needed to support development. The former Suffolk Coastal District Council and the former Waveney District Council both adopted Community Infrastructure Levy Charging Schedules and the Council therefore collects Community Infrastructure Levy for certain developments. The Council is currently reviewing the CIL Charging Schedule with a view to adopting a new charging schedule for East Suffolk.
- 11.2 Whilst the Council's CIL Charging Schedules include residential developments, the Community Infrastructure Levy Regulations allows for 100% relief for the development of social housing. Whilst this covers many types of affordable housing, the Community Infrastructure Levy Regulations allow Councils to set a policy allowing relief for other affordable tenures. The former Suffolk Coastal District Council and former Waveney District Council both adopted Discretionary Social Housing Relief Policies and these, or any subsequent policies published by East Suffolk Council, should be referred to. The Discretionary Social Housing Relief Policies can be viewed on the Council's CIL webpages⁴¹ and guidance is set out in the Planning Practice Guidance on the Community Infrastructure Levy⁴²
- 11.3 In relation to the recently introduced First Homes, the Planning Practice Guidance explains that mandatory social housing relief will be available for

First Homes as this can apply in respect of dwellings where the first and subsequent sales are for no more than 70% of their market value.

- 11.4 To obtain the relief, an application must be made to the Council prior to commencement of the development. Further advice is available on the Council's CIL webpages⁴³.
- 11.5 Should an affordable dwelling cease to be an affordable dwelling, the social housing relief granted may need to be paid back, in accordance with the Community Infrastructure Levy Regulations.

⁴¹ www.eastsuffolk.gov.uk/planning/developer-contributions/cil-and-s106-advice-service/

⁴² www.gov.uk/guidance/community-infrastructure-levy

⁴³ www.eastsuffolk.gov.uk/planning/developer-contributions/community-infrastructure-levy/

12. Making a Planning Application



12. Making a Planning Application

- 12.1 Applications for planning permission that involve affordable housing should include sufficient relevant information for their determination. For a checklist of information that must be submitted with an application, applicants should consult the East Suffolk Council [Local Validation List](#)⁴⁴.
- 12.2 The Council provides a pre-application advice service, for a charge (other than in some cases – see Chapter 6 Exception Sites) and would expect and encourage applicants for developments involving affordable housing to use this service. Further details are available on the Council’s website at www.eastsuffolk.gov.uk/planning/planning-applications-and-enforcement/find-out-if-you-need-planning-permission/pre-application-advice-service/.
- 12.3 For outline applications, the Council expects the submission of an Affordable Housing Statement to set out the percentage and/or number of affordable dwellings (depending on whether the precise number of dwellings is known) including tenure, size, mix and details of floorspace at plot by plot (where possible) and tenure by tenure level. At reserved matters stage it is expected that affordable dwellings, including tenure, would be clearly identifiable at plot level. Details of the Registered Provider, if known, should also be provided.
- 12.4 For applications for full permission the Council expects the Affordable Housing Statement to include full details of the proposed affordable

housing, including tenure and size mix, clearly identifiable at plot level. Details of the Registered Provider, if known, should also be provided.

- 12.5 Design and Access Statements should be submitted for proposals involving housing development and should include an explanation of how the design of the development integrates the affordable housing. The Design and Access Statement could also be used to explain which affordable plots would meet the M4(2) accessible and adaptable dwellings standard.

⁴⁴ www.eastsuffolk.gov.uk/planning/planning-applications-and-enforcement/how-to-submit-a-planning-application/



Appendix 1 Affordable Housing Needs by Tenure

Suffolk Coastal Local Plan area:

Source <https://www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/SHMA-Part-2-update-2019.pdf> (2014 based results)

Table 4.2f Current tenure and tenure profile projected in 2036 in Suffolk Coastal

Tenure	Current tenure (2018)		Projected tenure (2036)	
	Number	Percentage	Number	Percentage
Owner-occupied	41,131	73.0%	47,293	72.9%
Private rented	8,562	15.2%	9,442	14.6%
Shared Ownership	132	0.2%	729	1.1%
Social Rent/Affordable Rent	6,542	11.6%	7,413	11.4%
Total	56,367	100.0%	64,877	100.0%

Table 4.3f Tenure of new accommodation required in Suffolk Coastal 2018 - 2036

Tenure	Current tenure profile	Tenure profile 2036	Change required	% of change required
Owner-occupied	41,131	47,293	6,163	72.4%
Private rent	8,562	9,442	880	10.3%
Shared Ownership	132	729	597	7.0%
Social Rent/Affordable Rented	6,542	7,413	871	10.2%
Total	56,367	64,877	8,510	100.0%



Table 4.4f Size of new owner-occupied accommodation required in Suffolk Coastal 2018 – 2036				
<i>Size of home</i>	<i>Current size profile</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	1,107	1,670	563	9.1%
Two bedrooms	7,648	9,677	2,029	32.9%
Three bedrooms	17,096	18,700	1,604	26.0%
Four or more bedrooms	15,280	17,247	1,967	31.9%
Total	41,131	47,293	6,163	100.0%

Table 4.5f Size of new private rented accommodation required in Suffolk Coastal 2018 - 2036				
<i>Size of home</i>	<i>Current size profile</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	1,430	1,576	146	16.6%
Two bedrooms	3,147	3,356	209	23.7%
Three bedrooms	2,922	3,195	273	31.0%
Four or more bedrooms	1,063	1,315	252	28.6%
Total	8,562	9,442	880	100.0%

**Table 4.6f Size of new Shared Ownership accommodation required in Suffolk Coastal 2018 - 2036**

<i>Size of home</i>	<i>Current size profile (2018)</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	24	184	160	26.7%
Two bedroom	45	219	174	29.1%
Three bedroom	47	208	161	27.1%
Four or more bedrooms	16	118	102	17.1%
Total	132	729	597	100.0%

Table 4.7f Size of new Social Rent/Affordable Rent required in Suffolk Coastal 2018 - 2036

<i>Size of home</i>	<i>Current size profile (2018)</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	1,778	1,948	170	19.5%
Two bedroom	2,466	2,564	98	11.3%
Three bedroom	2,159	2,276	117	13.4%
Four or more bedrooms	139	625	486	55.8%
Total	6,542	7,413	871	100.0%



Table 4.8f Potential demand for discount home ownership/Starter Homes in Suffolk Coastal by size 2018 - 2036		
<i>Dwelling size</i>	<i>Discount home ownership/Starter Homes</i>	<i>Residual private rented homes</i>
One bedroom	66	80
Two bedroom	111	97
Three bedroom	143	130
Four or more bedrooms	70	182
Total	390	489

Waveney Local Plan area:

Source <https://www.eastsuffolk.gov.uk/assets/Planning/Suffolk-Coastal-Local-Plan/Local-Plan-Review/Evidence-base/Ipswich-and-Waveney-Housing-Market-Areas-Strategic-Housing-Market-Assessment-Part-2.pdf>

Table 4.2b Current tenure and tenure profile projected in 2036 in the Waveney HMA				
<i>Tenure</i>	<i>Current tenure (2014)</i>		<i>Projected tenure (2036)</i>	
	<i>Number</i>	<i>Percentage</i>	<i>Number</i>	<i>Percentage</i>
Owner-occupied	35,554	69.2%	40,251	68.2%
Private rented	8,433	16.4%	9,598	16.3%
Shared Ownership	155	0.3%	633	1.1%
Social Rent/Affordable Rent	7,248	14.1%	8,563	14.5%
Total	51,390	100.0%	59,045	100.0%

**Table 4.3b Tenure of new accommodation required in the Waveney HMA 2014 - 2036**

<i>Tenure</i>	<i>Current tenure profile</i>	<i>Tenure profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
Owner-occupied	35,554	40,251	4,697	61.4%
Private rent	8,433	9,598	1,165	15.2%
Shared Ownership	155	633	478	6.2%
Social Rent/Affordable Rented	7,248	8,563	1,315	17.2%
Total	51,390	59,045	7,655	100.0%

Table 4.4b Size of new owner-occupied accommodation required in the Waveney HMA 2014 - 2036

<i>Size of home</i>	<i>Current size profile</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	704	1,188	483	10.3%
Two bedrooms	8,522	9,823	1,301	27.7%
Three bedrooms	17,833	19,466	1,633	34.8%
Four or more bedrooms	8,494	9,774	1,280	27.2%
Total	35,554	40,251	4,697	100.0%



Table 4.5b Size of new private rented accommodation required in the Waveney HMA 2014 - 2036

<i>Size of home</i>	<i>Current size profile</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	1,611	1,735	124	10.6%
Two bedrooms	2,965	3,322	357	30.7%
Three bedrooms	3,282	3,741	458	39.4%
Four or more bedrooms	575	800	226	19.3%
Total	8,433	9,598	1,165	100.0%

Table 4.6b Size of new Shared Ownership accommodation required in the Waveney HMA 2014 - 2036

<i>Size of home</i>	<i>Current size profile (2014)</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	30	133	103	21.6%
Two bedroom	48	204	156	32.6%
Three bedroom	51	213	162	34.0%
Four or more bedrooms	26	83	57	11.9%
Total	155	633	478	100.0%

**Table 4.7b Size of new Social Rent/Affordable Rent required in the Waveney HMA 2014 - 2036**

<i>Size of home</i>	<i>Current size profile (2014)</i>	<i>Size profile 2036</i>	<i>Change required</i>	<i>% of change required</i>
One bedroom	2,339	2,617	279	21.2%
Two bedroom	2,195	2,465	270	20.5%
Three bedroom	2,536	2,919	383	29.1%
Four or more bedrooms	178	562	383	29.2%
Total	7,248	8,563	1,315	100.0%

Table 4.8b Potential demand for discount home ownership/Starter Homes in the Waveney HMA by size 2014 - 2036

<i>Size of home</i>	<i>Discount home ownership / Starter Homes</i>	<i>Residual private rented homes</i>
One bedroom	78	47
Two bedroom	141	218
Three bedroom	174	286
Four or more bedrooms	60	166
Total	454	716



Appendix 2 Section 106 Model Heads of Terms and Template Clauses

Purpose

The purpose of this document is to set out the standard terms under which East Suffolk Council expects Section 106 Planning Obligations relating to the provision of Affordable Housing to be agreed. Deviation from the Model Heads of Terms and clauses will only be accepted where justified and in exceptional circumstances. The Model Heads of Terms have been prepared in consultation with stakeholders and interested parties and will be periodically reviewed and updated. The Model Heads of Terms should be read in conjunction with the guidance contained in the East Suffolk Affordable Housing Supplementary Planning Document.

Compliance with Planning Policy

The Council has two Local Plans, each with their own policy for the provision of Affordable Housing. The policy requirements are set out in the Suffolk Coastal Local Plan under Policy SCLP5.10 Affordable Housing on Residential Developments, and in the Waveney Local Plan under Policy WLP8.2 Affordable Housing. The Government introduced its policy on First Homes in 2021. The Affordable Housing Supplementary Planning Document explains how the Council will apply the Government’s First Homes policy. The policy requirements, including the application of the First Homes policy, are summarised below:

	Threshold	Requirement	Tenure
Suffolk Coastal Local Plan (SCLP5.10)	10 dwellings or more and sites of 0.5ha or more	1 in 3 – applies to whole plan area	50% affordable rent / social rent 25% shared ownership 25% discounted home ownership (to be applied as 25% First Homes - see section on First Homes in Ch3 of SPD)
Waveney Local Plan (WLP8.2)	11 dwellings or more	20% in Lowestoft and Kessingland (excluding Corton); 40% in Southwold and Reydon; 30% elsewhere	50% affordable rent Expectation that the remainder is affordable ownership (25% to be secured as First Homes - see section on First Homes in Ch3 of SPD)

Neighbourhood Plans may also contain their own policies on affordable housing requirements and mix.

Planning Application Stage

Planning applications should be clear in terms of the number, housing types and tenure types of the Affordable Housing provision proposed on the development (percentages may be appropriate on Outline schemes). Applicants should seek to engage with the Council’s Housing Enabling Team to ensure the proposed Affordable Housing reflects local housing requirements following analysis of the relevant housing needs information. Early engagement will reduce the need for lengthy discussions or potential design changes over the course of the application.



Preparation of a Section 106 Agreement

An agreement involving the requirement for on-site Affordable Housing should:

1. Define Affordable Housing.
2. Set out the mix of the Affordable Housing, by percentage on outline schemes (where final dwelling numbers are not known), and by number in detailed applications. Applicants should have engaged in discussions with the Council to determine Affordable Housing need at pre-application stage.
3. On outline schemes, set out an agreed mix of housing types, sizes and tenures by percentage, with the requirement for an Affordable Housing Scheme to be submitted with the reserved matters for approval. On phased schemes, details must be given of the proposed mix for the remaining phases to ensure well thought out provision across the development as a whole.
4. On detailed schemes, set out the plot number, housing type (including which of these are M4(2/3) compliant), size and tenure, subject to amendments agreed in writing with the Council.
5. Include the requirement for an Affordable Housing Scheme to be submitted with the following details (unless they are set out in detail in the Section 106 Agreement):
 - the timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings;
 - the name and registration number of the Registered Provider if known;
 - the number, location, tenure, plot numbers, housing type and size (including the number of occupants a dwelling can house) of Affordable Dwellings allocated to the Affordable Housing Scheme;
 - full details of the Affordable Housing mix if differing from that set out in the Affordable Housing Table (such proposal to reflect the Council's up to date strategic housing market assessment and specific local needs as determined and agreed by the Council);
 - such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme.
6. Where the affordable dwellings are to be transferred to a Registered Provider, require a contract has been entered, or evidence provided demonstrating that negotiations are in hand, with a Registered Provider of Affordable Housing (which may include Housing Associations, Local Housing Authorities and community led housing groups who are legally constituted as non-profit organisations) for the purchase of the affordable dwellings prior to occupation of 40% of the market dwellings on the development/phase.



7. Where the affordable dwellings are to be transferred to a Registered Provider, require the affordable housing freehold to be transferred to a Registered Provider prior to occupation of no more than 60% of the market housing on the development/phase. Where sufficient justification is provided it may be appropriate to stagger provision of the units; in these cases, at least 50% of the affordable housing units must be provided prior to 50% of market housing occupations and the remainder prior to 75%.
8. Define the types of affordable housing permitted on the development, as defined within Annex 2 to the National Planning Policy Framework (2021) (or any amending or subsequent national planning policy that may be published by the Government from time to time) and where appropriate should allow for any fundamental changes in amended legislation or guidance (such as the minimum/maximum percentage that may be purchased on shared ownership schemes).
9. Define those eligible to occupy the affordable dwellings.
10. Include the affordable housing provisions not to be binding upon protected persons (protected persons to be defined within the Agreement).
11. Unless otherwise agreed, include a local connections cascade ensuring local people are given priority in allocating the affordable dwellings. Mutual exchange is expected to be in accordance with the local connections cascade.
12. Include appropriate Mortgagee Protection Clauses in line with the National Housing Federation standard template and Model first Homes section 106 Agreement clauses published by DLUHC.
13. Include a requirement for the Owner to notify the Council within 28 days of the transfer or sale of the affordable dwellings of the plot number, street address, house type, size and tenure of each dwelling and date of transfer.
14. Include cascade provisions in the event a Registered Provider cannot be found despite reasonable endeavours, for the Owner to enter into negotiations with the Council to seek an agreed way forward that does not disadvantage or fetter the ability to continue construction or occupation of the development whilst maximising the provision of affordable housing.
15. Include provisions if after three calendar months of handover of the affordable dwellings to the Registered Provider there remains any affordable dwellings not leased or sold and the RP can provide evidence to the Council's satisfaction there are no prospective occupants, the RP shall be free to seek written agreement of the Council to convert those affordable dwellings to an alternative form of affordable housing as defined within Annex 2 to the National Planning Policy Framework (July 2021) (or any amending or subsequent national planning policy that may be published by the Government from time to time).
16. The Council will have nomination rights for any affordable rented dwellings and a nomination agreement must be entered into (unless the RP has entered into an agreement with the Council to grant nomination



rights across East Suffolk) prior to their occupation setting out the terms of allocation.

17. For discounted sale products, require a mechanism to ensure the discount is retained in perpetuity or set out the terms under which remaining equity may be purchased. 100% staircasing will not be allowed on First Homes or discounted market sale homes.

18. For shared ownership and shared equity housing that allows 100% staircasing, require the proceeds from the final sale to be held by the Registered Provider and reinvested in providing additional affordable housing in the East Suffolk district.

19. For First Homes, discounted sale and shared equity housing, require the owner to agree a procedure for verifying eligible purchasers prior to commencement. For First Homes this will be in the form prescribed by DLUHC.

20. For First Homes, discounted sale and shared equity housing, a mechanism for approving the market value of the unit and subsequent sale price.

21. For Rural Exceptions Sites, the affordable housing must be retained in perpetuity and the local connections cascade should be amended to require a minimum period of 3 months advertising to the initial cascade.

22. In the event a financial contribution is agreed in lieu of on-site affordable housing, or a contribution equal to a fraction of an affordable housing

unit is payable to make up the full policy requirement, the expectation is the contribution will be paid to the Council prior to occupation of more than 40% of the dwellings on the development, for provision of additional affordable housing within the District of East Suffolk. The contribution will be index linked to increases in the BCIS Index or any index that replaces it. The Council will have 10 years from full payment in which to spend the contribution.

Template Definitions (to be included/omitted as appropriate):

“Additional First Homes Contribution”

means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 1.10, 3.8 or 3.9 of this Schedule, the lower of the following two amounts:

- (a) 30% of the proceeds of sale; and
- (b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms



of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home

and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the Disposal of the First Home other than as a First Home.

“Affordable Dwellings”

Means X Dwellings to be made available as Affordable Housing comprising of {number/tenures} Dwellings the exact number, location, tenure and mix of Affordable Dwellings as set out in the Affordable Housing Table;

“Affordable Dwellings for Rent”

Affordable Housing let by a Registered Provider to Eligible Persons where the rent level is capped at 80% of the local market rent (including any service charges, where applicable) and within local housing allowance rates, or as otherwise agreed with the Council in writing;

“Affordable Housing”

Housing that will be available to eligible households and as defined in Annex 2 of the National Planning Policy Framework (2021) or any amending or subsequent

“Affordable Housing Contribution”

national planning policy that may be published by the Government whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices (unless otherwise agreed in writing with the Council);

Means the sum of £ (pounds) Index Linked to be paid [in lieu of on site affordable housing / as a contribution of X of an Affordable Dwelling in lieu of on site affordable housing] to be used towards the provision of Affordable Housing through the acquisition of land or the construction or development of new properties or the purchase or refurbishment of existing market properties in East Suffolk;

“Affordable Housing Scheme”

A scheme to be submitted [for each Phase intended to include Affordable Housing] for the provision of the Affordable Dwellings generally in accordance with the Affordable Housing Table unless otherwise agreed with the Council such Affordable Housing Scheme shall include details of;
- the timescale and programme for implementation of the Affordable



Housing Scheme and construction of the Affordable Dwellings;

- the name and registration number of the Registered Provider, where known;
- a plan and schedule indicating the number, location, tenure, plot numbers, type and size (including number of occupants each dwelling can house) of Affordable Dwellings allocated to the Affordable Housing Scheme;
- full details of the Affordable Housing mix if differing from that set out in the Affordable Housing Table (such proposal to reflect the Council’s up to date strategic housing market assessment and specific local needs as determined and agreed by the Council);
- such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme;

“Affordable Housing Table” Means the table at clause/schedule X indicating the house types and tenure types of the Affordable Dwellings unless otherwise agreed in writing with the Council;

“Allocation Policy” Means the policy and procedure adopted by the Council to determine the eligibility and priority for allocation of the Affordable Dwellings for Rent;

“Armed Services Member” means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;

“BCIS Index” the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Council and the Owners;

“Chargee” any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;

“Compliance Certificate” means the certificate issued by the Council confirming that a Dwelling is being Disposed of as a First Home to a purchaser meeting the Eligibility Criteria



(National) and unless paragraph 3.2 applies the Eligibility Criteria (Local);

“Discount Market Price” means a sum which is the Market Value of a First Home discounted by at least 30%;

“Discount Market Sale Dwellings” Means Affordable Dwellings sold at a discount of at least 20% below Market Value to Qualifying Persons and subject to a binding covenant securing the discount in perpetuity;

“Disposal” means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest other than:

- (a) a letting or sub-letting of a First Home in accordance with paragraph 3
- (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for Occupation except where the transfer is to a First Homes Owner
- (c) an Exempt Disposal

and “Dispose” and “Disposed” and “Disposing” shall be construed accordingly;

“Dwelling” means any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Planning Permission⁴⁵;

“Eligibility Criteria (Local)” means local criteria met in respect of a purchase of a First Home if:

- (a) the purchaser meets the criteria in the Local Connections Cascade (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connections Cascade); and
- (b) the purchaser meets any further local criteria in effect at the date of the relevant Disposal of a First Home

it being acknowledged that at the date of this Deed the Council has only prescribed Eligibility Criteria (Local) in respect of (a); means criteria which are met in respect of a purchase of a First Home if:

- (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and
- (b) the purchaser’s annual gross income (or in the case of a joint purchase, the joint purchasers’ joint annual gross

“Eligibility Criteria (National)”

⁴⁵ Planning Permission to be defined



income) does not exceed £80,000 or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home;

“Eligible Person”
A person or persons on the housing register maintained by the Council or who is otherwise approved by the Council as being in need of separate or alternative accommodation and unable to buy housing generally available on the open market;

“Exempt Disposal”
means the Disposal of a First Home in one of the following circumstances:

(a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner

(b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner

(c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce,

annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order

(d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 1.10 shall apply to such sale)

Provided that in each case other than (d) the person to whom the Disposal is made complies with the terms of paragraph 3; means a Dwelling which may be Disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap;

“First Home”
means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:

(a) [the Developer; or]⁴⁶

(b) a[nother] developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before

⁴⁶ If ‘Developer’ is defined in the Deed



	<p>that First Home is made available and is Disposed of for Occupation as a First Home; or</p>		<p>C is the BCIS Index for the month two (2) months before the date on which the sum is payable;</p>
	<p>the freehold a tenant or sub-tenant of a permitted letting under paragraph 3;</p>		<p>D is the BCIS Index for the month two (2) months before the date of this Deed; and</p>
<p>“First Time Buyer”</p>	<p>means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003;</p>	<p>Local Connections Cascade</p>	<p>C/D is equal to or greater than 1; The local connections criteria to be applied to each and every let or sale of an Affordable Dwelling as set out in Appendix X;</p>
<p>“Homes England”</p>	<p>The non-departmental public body responsible for creating thriving communities and affordable homes in England and which is the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body that may replace it in either function;</p>	<p>“Market Dwellings”</p>	<p>that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing;</p>
<p>“Index Linked”</p>	<p>the increase in any sum referred to in Schedule X by an amount equivalent to the increase in the BCIS Index from the date of this Deed until the date on which such sum is payable using the application of the formula $A = B \times (C/D)$ where:</p> <p>A is the sum payable under this Deed;</p> <p>B is the original sum calculated as the sum payable;</p>	<p>“Market Value”</p>	<p>means the open market value as assessed by a Valuer of a Dwelling and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account any discount in the valuation;</p>
		<p>“Mortgagee”</p>	<p>means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire an Affordable Dwelling including all such regulated entities which provide Shari’ah</p>



“Nomination Agreement” compliant finance for the purpose of acquiring an Affordable Dwelling; the agreement to be entered into by the Council and the Registered Provider in respect of rights for the Council to nominate Eligible Persons for the Affordable Dwellings for Rent in the form provided by the Council a draft of which is appended to this Deed at Schedule X;

“Occupation” and “Occupied” occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;

“Practical Completion” means the stage reached when the construction of a Dwelling is sufficiently complete that, where necessary, a certificate of practical completion can be issued and it can be Occupied;

“Price Cap” means the amount for which the First Home is sold after the application of the Discount Market Price which on its first Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be set locally or published from time to time by the Secretary of State;

“Protected Person” Means any person who:
 a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Dwelling;
 b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling;
 c) a 100% Staircaser;
 d) any successor in title to a Chargee or Mortgagee of the persons named in a) – c) above;
 e) any Mortgagee of a Shared Ownership Dwelling lawfully exercising the mortgagee protection provisions within that Shared Ownership Lease;

“Qualifying Persons” Means a person or persons unable to buy housing generally available on the open market and whose household income is below £80,000 (or such other amount agreed in writing with the Council in accordance with government policy);

“Reasonable Consideration” Offer prices from Registered Providers which give the Owners a reasonable consideration having regard to current market conditions in the Disposal of



Affordable Housing of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements;

“Registered Provider” or “RP” For the purposes of this Deed means either: -

- a body registered as a social landlord pursuant to the provisions of the Housing Act 1996 or a housing association within the meaning of the Housing Associations Act 1985 or;
- any person or body or entity which is registered as a provider or social housing in accordance with Section 80(2) and Chapter 3 of the Housing and Regeneration Act 2008 or;
- any body, organisation or company which is registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by the Council and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord;

“Sales Procedure” to be approved in writing by the Council; Means the procedure to be approved in writing by the Council to verify the Market Value and eligibility of purchasers in relation to the Shared Equity

“SDLT” Dwellings and Discount Market Sale Dwellings;

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect;

“Secretary of State” means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function;

“Shared Equity Dwellings” Means Affordable Dwellings to be purchased at no more than 75% Market Value on a freehold basis with a second charge (“the Second Charge”) for the remaining 25% in favour of the RP. The Second Charge shall have no interest payable in relation to it and shall not involve any consideration being due on initial sale. The Second Charge shall not be redeemed or removed by the purchaser otherwise than on or after the second anniversary of the first Occupation of the Shared Equity Dwelling and only for consideration the equivalent of 25% of the Market Value at that time, or, if at any point during the Term the Shared Equity Dwelling is sold, then the proceeds of sale shall be divided on the basis of 75% of the proceeds to the vendor and 25% to the RP or Council and the Second Charge shall thereafter be



redeemed and removed from the title on completion of the sale;

“Shared Ownership Dwellings” Means those Dwellings purchased on a Shared Ownership Lease;

“Shared Ownership Lease” Means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council, such lease to provide for the following:

- i. not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;
- ii. power to the purchaser to increase their ownership up to 100%;
- ii. an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England;

“Site” the land described in Schedule X against which this Deed may be enforced as shown edged red for identification purposes only on the Plan⁴⁷;

“Valuer” means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer acting in an independent capacity;

“100% Staircaser” Means a lessee of a Shared Ownership Dwelling or a under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling or the owner of a Shared Equity Dwelling who has exercised their right to purchase the remaining equity;

Template Covenants (to be included/omitted as appropriate):

1. Affordable Housing Provisions relating to all Affordable Housing

- 1.1 The Owner covenants not to Commence Development until the Affordable Housing Scheme has been agreed in writing with the Council.
- 1.2 The Owner covenants that no more than 40% of the Dwellings shall be Occupied until the Affordable Housing Contribution has been paid to the Council.

⁴⁷ ‘Plan’ to be defined



- 1.3 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied (save unless otherwise agreed with the Council) until the Council has been notified of the name and registration number of the proposed Registered Provider for the Affordable Dwellings [(save for any Affordable Dwellings to be sold directly by the Owner)].
- 1.4 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied (save unless otherwise agreed with the Council) until a contract has been entered into with a Registered Provider for transfer of all the Affordable Dwellings [(save for any Affordable Dwellings to be sold directly by the Owner) unless otherwise agreed in writing with the Council.
- 1.5 The Owner covenants that no more than 60% of the Market Dwellings shall be Occupied until the Affordable Dwellings have been constructed in accordance with the Planning Permission made ready for residential Occupation and either transferred to a Registered Provider or marketed for sale to Qualifying Persons or First Time Buyers in accordance with the terms of this Deed.
- 1.6 The Owner covenants that from the date of Practical Completion the Affordable Dwellings shall not be used other than for the purposes of Affordable Housing for Eligible Persons or Qualifying Persons or First Time Buyers in accordance with the Affordable Housing Scheme subject however to the provisions herein.
- 1.7 In the event that a Registered Provider cannot be found for any of the Affordable Dwellings [(save for any Affordable Dwellings to be sold directly by the Owner subject to the Sales Procedure)] throughout England despite the Owner's reasonable endeavours to do so the Owner will be required to prove to the Council's satisfaction (the

Council at all times acting reasonably) that demand from Registered Providers has not been forthcoming for Reasonable Consideration.

- 1.7.1 If the Council is satisfied that demand from Registered Providers has not been forthcoming for Reasonable Consideration the Council will enter into written negotiations with the Owner to seek an agreed way forward that does not disadvantage the Owner whilst maximising the provision of Affordable Housing.
- 1.8 If after three calendar months of handover of the Affordable Dwellings to the RP there remains any Affordable Dwellings not leased or sold and the RP can provide evidence to the Council's satisfaction there are no prospective occupants the RP shall be free to seek written agreement of the Council to convert those Affordable Dwellings to an alternative form of Affordable Housing defined within Annex 2 to the National Planning Policy Framework (July 2021) (or any amended or subsequent national planning policy that may be published by the Government from time to time).
- 1.9 Nothing in this Schedule shall be binding on a Protected Person or any Mortgagee or Chargee of a Protected Person or any receiver appointed by such Mortgagee or Chargee or any person deriving title from any such person.

Mortgagee Protection Clauses

- 1.10 The Affordable Housing obligations in this Schedule X shall not apply to any Mortgagee or Chargee (or any receiver (including an administrative receiver appointed by such Mortgagee or Chargee) or any other person appointed under any security documentation to



enable such Mortgagee or Chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver) of the whole or any part of the Affordable Dwellings or any individual First Home or any persons or bodies deriving title through such Chargee, Mortgagee or Receiver PROVIDED THAT:

- 1.10.1 such Chargee or Receiver of an Affordable Dwelling for Rent or Shared Ownership Dwelling or Shared Equity Dwelling shall first give written notice to the Council of its intention to Dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a Disposal of the Affordable Dwelling[s] to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- 1.10.2 if such Disposal of the Affordable Dwelling[s] for Rent or Shared Ownership Dwelling[s] or Shared Equity Dwelling[s] has not completed within the three month period, the Chargee or Receiver shall be entitled to Dispose of the Affordable Dwelling[s] for Rent or Shared Ownership Dwelling[s] or Shared Equity Dwelling[s] free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely
- 1.10.3 such Mortgagee or Receiver of a First Home or Discount Market Sale Dwelling shall first give written notice to the Council of its intention to Dispose of the relevant Dwelling; and

- 1.10.4 once notice of intention to Dispose of the relevant First Home or Discount Market Sale Dwelling has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home subject only to paragraph 1.10.5 and that Discount Market Sale dwelling subject only to paragraph 1.10.6 at its full Market Value
- 1.10.5 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution
- 1.10.6 following the Disposal of the relevant Discount Market Sale Dwelling the Mortgagee or Receiver shall pay to the Council an amount equal to 20% of the Disposal price or such lower amount where following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses less than 20% of the Disposal price remains
- 1.10.7 following receipt of notification of the Disposal of the relevant First Home or Discount Market Sale Dwelling the Council shall:
 - i. forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 3.5; and



- ii. apply all such monies received towards the provision of Affordable Housing in East Suffolk

Affordable Housing Table (Example)

House Type	Tenure	Number / percentage	Plot Number
1 bed 2 person flat	Affordable Rent	2	1-2
1 bed 2 person flat (M4(2/3) compliant)	Affordable Rent	1	3
2 bed 4 person house	Affordable Rent	3	4-6
2 bed 4 person bungalow M4(2/3) compliant	Shared Ownership	3	12-14
3 bed 5 person house M4(2/3) compliant	First Homes	3	15-17

2. Rent and Shared Ownership Dwelling Provisions

2.1 The Registered Provider shall enter into a Nomination Agreement with the Council and shall not let Dispose or otherwise permit the Occupation of any of the Affordable Dwellings for Rent until such Nomination Agreement has been entered into.

2.2 On the first and any subsequent letting of an Affordable Dwelling for Rent the Council will (unless otherwise agreed in writing) nominate eligible applicants in accordance with the Allocation Policy and Nomination Agreement (Priority will go to applicants who have a Local Connection in accordance with the Local Connections Cascade at Appendix X).

2.3 The Registered Provider shall not Dispose of any interest in any of the Affordable Dwellings for Rent other than by way of an assured tenancy or an assured shorthold tenancy under the Housing Act 1988 (or any form of residential tenancy prescribed by statute in substitution for or in addition to those) PROVIDED THAT nothing in this paragraph shall be deemed to prohibit the sale of the Affordable Dwellings individually or together (in any numerical combination) as one transaction (whether or not subject to any tenancy) to a RP nor prevent any Registered Provider from charging the Affordable Dwellings in whole or part.

2.4 The Owner will notify the Council within 28 days of the transfer of any Affordable Dwellings to a Registered Provider of the plot number, street address, house type, size and tenure of each dwelling and date of transfer.

2.5 In the event 100% of a Shared Ownership Dwelling is purchased:

- i. the net proceeds from the final sale of the Shared Ownership Dwelling are to be ringfenced by the RP for 5 years for the provision of Affordable Housing within the East Suffolk District, and should the owner of the Shared Ownership Dwelling wish to sell it he must notify the RP and allow the RP to purchase the Shared Ownership Dwelling back in the first instance at Market Value;



- ii. in the event the RP purchases the Shared Ownership Dwelling in accordance with this clause at 2.5i, the Shared Ownership Dwelling will be marketed as such subject to the terms of this Deed; and
- iii. in the event the RP declines to purchase the Shared Ownership Dwelling or fails to notify the owner of the Shared Ownership Dwelling of its intention to make an offer to purchase the dwelling within twenty-eight days of the notification as specified in this clause at 2.5j, then the owner of the Shared Ownership Dwelling may sell it on the open market free from the terms of this Deed.

3. First Homes

- 3.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:
 - a. the Eligibility Criteria (National); and
 - b. the Eligibility Criteria (Local).
- 3.2 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local), paragraph 3.1 b shall cease to apply.
- 3.3 Subject to paragraphs 3.6 to 3.10, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee.
- 3.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until the Council has been provided with evidence that:

- 3.4.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 3.2 applies meets the Eligibility Criteria (Local) (if any)
- 3.4.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and
- 3.4.3 the transfer of the First Home includes:
 - a) a definition of the "Council" which shall be East Suffolk Council
 - b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in clause[s] [] of the [Supplemental] S106 Agreement a copy of which is attached hereto as the Annexure."
 - c) A definition of "[Supplemental] S106 Agreement" means the [supplemental] agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) the Council [and] (2) [and (3)]
 - d) a provision that the First Home is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the First Home or any part of it other than in accordance with the First Homes Provisions
 - e) a copy of the First Homes Provisions in an Annexure.
- 3.4.4 The Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that



the requirements of paragraphs 3.3 and 3.4.1 have been met.

3.5 On the first Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by East Suffolk Council of East Suffolk House, Riduna Park, Station Road, Melton, Woodbridge IP12 1RT or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

3.6 The owner of a First Home may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

3.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 3.1 and 3.2 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 3.3 and 3.4.1; or

3.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 3.6.1 before being able to Dispose of the Dwelling other

than as a First Home would be likely to cause the First Homes Owner undue hardship

3.7 Upon receipt of an application served in accordance with paragraph 3.6 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is Disposed of to it at the Discount Market Price.

3.8 If the Council is satisfied that either of the grounds in paragraph 3.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 that the relevant Dwelling may be Disposed of:

3.8.1 to the Council at the Discount Market Price; or

3.8.2 (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 3.10 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is Disposed of other than as a First Home.

3.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 3.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 3.6 following which the Council must within 28 days issue



confirmation in writing that the Dwelling may be Disposed of other than as a First Home.

3.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 3.8 or 3.9 above the owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution.

3.11 Upon receipt of the Additional First Homes Contribution the Council shall:

3.11.1 within 28 working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 3.5 where such restriction has previously been registered against the relevant title

3.11.2 apply all monies received towards the provision of Affordable Housing.

3.12 Any person who purchases a First Home free of the restrictions in schedule [] [] of this Deed pursuant to the provisions in paragraphs 3.9 and 3.10 shall not be liable to pay the Additional First Homes Contribution to the Council.

3.13 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 3.14 – 3.17 below.

3.14 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let

or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

3.15 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

- a. the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
- b. the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;
- c. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
- d. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
- e. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
- f. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.



3.16 A letting or sub-letting permitted pursuant to paragraph 3.14 or 3.15 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

3.17 Nothing in this paragraph 3 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation (except where other local policy restrictions apply) provided that the First Home remains at all times the First Home Owner’s main residence.

4. Shared Equity and Discount Market Sale Housing

4.1 The maximum price payable to the Owners in respect of the Disposal of a Discount Market Sale Dwelling shall not exceed 80% of the Market Value (for sale or leasehold purposes) as certified by a Valuer.

4.2 The maximum price payable to the Owners in respect of the Disposal of a Shared Equity Dwelling shall not exceed 75% of the Market Value (for sale or leasehold purposes) as certified by a Valuer.

4.3 The Shared Equity Dwellings / Discount Market Sale Dwellings shall only be Disposed of (which term shall include a freehold sale or sale of a registrable lease) to a Qualifying Person in accordance with the Local Connections Cascade and on the terms specified herein PROVIDING THAT in the event they are transferred to a RP clauses 4.4 to 4.6 of this Paragraph 4 shall not apply:

4.4 The Owner covenants to agree the Sales Procedure with the Council no less than 8 weeks prior to marketing the Shared Equity Dwelling / Discount Market Sale Dwelling for its first sale.

4.5 Any dispute over the Market Value is to be determined by an independent expert⁴⁸ who is a chartered surveyor of not less than 10 years standing who is experienced in the field of valuing and selling residential property such as the Shared Equity Dwellings / Discount Market Sale Dwellings.

4.6 No purchaser of a Shared Equity Dwelling or Discount Market Sale Dwelling shall sub-let or otherwise rent out such Shared Equity Dwelling or Discount Market Sale Dwelling (unless approved in writing by the Council).

4.7 Where the freehold or a registrable leasehold interest in a Discount Market Sale Dwelling is transferred such transfer and all such subsequent transfers shall contain a covenant binding the transferee and all subsequent transferees that no transfer shall take place save for a Disposal of the freehold or registrable leasehold interest in the Discount Market Sale Dwelling at a price or premium which does not exceed 80% of the Market Value of the said unit at the date of Disposal as certified by a Valuer and will on each transfer of the said units apply for the following restriction (or a restriction in similar terms) to be entered in the Register of the title in the property:

"No transfer, assent or other dealing by the Proprietor of the property is to be registered without the transferee's solicitor producing to the Land Registry a Certificate confirming that the purchase price for the property does not exceed 80% of the open market value as determined in accordance with a Section 106 Agreement dated () and made under Section 106 Agreement given under the Town and County Planning Act 1990 between East Suffolk Council(1) and (2) and (3).

4.8 Nothing in the transfer shall operate to restrict delay limit or prevent the immediate Occupation or Disposal of any or Discount Market Sale Dwelling to or by a person and those living with him where such

⁴⁸ Capitalise if defined term



Occupation or Disposal arises as a result of a court order or any other statutory provision or presumption or will or intestacy but subject always to the strict compliance by any transferee of the legal estate with the provisions of this paragraph before any further Disposal for value of the legal estate takes place.

4.9 In the event the Owner is unable to find a suitable buyer for a Discount Market Sale Dwelling despite marketing the Dwelling for at least 6 months in total and all reasonable steps have been taken to sell the Dwelling (including, where appropriate, reducing the asking price) the Council may agree in writing to allow the sale of the dwelling on the open market and to remove the title restriction set out in paragraph 4.7 PROVIDING THAT

4.9.1 The Council has agreed in writing it is satisfied the Owner is unable to find a suitable buyer

4.9.2 A sum is paid to the Council equal to 20% of the purchase price of the Discount Market Sale Dwelling (or, as much as possible of that once the value of all lending against the Dwelling has been cleared) net of any additional Stamp Duty liability incurred towards the provision of Affordable Housing within the East Suffolk District.

4.10 In the event 100% of the Shared Equity Dwelling is purchased:

- the net proceeds from the sale of the Second Charge of the Shared Equity Dwelling are to be ring-fenced by the Registered Provider for 5 years for the provision of Affordable Housing within the East Suffolk District; and
- the owner of the Shared Equity Dwelling may sell it on the open market free from the terms of this Deed.

⁴⁹ To be determined on a case by case basis as appropriate

Local Connections Cascade (to be appended)

1. Affordable Dwellings for Rent

1.1 The Affordable Dwellings for Rent are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant:

- Has continuously lived in [Parish] for the preceding 5 years, OR
- Has continuously had a principal place of work in [Parish] for the preceding 5 years OR
- Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in [Parish] for the preceding 5 years, OR
- Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from [Parish].

1.2 If there are no persons who qualify under paragraph 1.1 above the Affordable Dwelling shall be allocated to person nominated by the Council who:

- Has continuously lived within X⁴⁹ miles of the Site for the preceding 5 years, OR
- Has continuously had a principal place of work within X miles of the Site for the preceding 5 years OR
- Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within X miles of the Site for the preceding 5 years, OR
- Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from within X miles of the Site.

1.3 If there are no persons who qualify under paragraphs 1.1 and 1.2 above the Affordable Dwelling shall be re-advertised to the East Suffolk District



and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Dwelling shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk

1.4. Where there is a mutual exchange the Registered Provider may let the Affordable Dwelling to any incoming tenant who satisfies the local connection criteria at paragraphs 1.1 to 1.3 above

2. Affordable Dwellings for sale

2.1⁵⁰ On advertising the first Disposal of a Shared Ownership, First Home, Discount Market Sale or Shared Equity Dwelling the Dwelling shall be marketed for sale for the first 3 months to persons who:

- a. Have continuously lived within [Parish] for the preceding 5 years, OR
- b. Have continuously had a principal place of work within [Parish] for the preceding 5 years OR
- c. Have parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within [Parish] for the preceding 5 years, OR
- d. Due to a lack of suitable accommodation were forced within the preceding 5 years to move away from [Parish].

PROVIDING THAT if after 2 months of marketing no offer has been received from persons who comply with 2.1 a-d the dwelling may be sold to persons who comply with 2.2 a-d.

2.2 On advertising [subsequent⁵¹] Disposals of a Shared Ownership, First Home, Discount Market Sale or Shared Equity Dwelling the Dwelling shall be marketed for sale for the first 3 months to persons who:

- a. Have continuously lived within the East Suffolk District for the preceding 5 years, OR
- b. Have continuously had a principal place of work within the East Suffolk District for the preceding 5 years OR
- c. Have parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within the East Suffolk District for the preceding 5 years, OR
- d. Due to a lack of suitable accommodation were forced within the preceding 5 years to move away from the East Suffolk District.

2.3 If there are no purchasers who qualify under paragraphs 2.1 [and 2.2] above within 3 months of marketing the Affordable Dwelling it may be sold free of Local Connections restrictions.

⁵⁰ To be used where a Local Connection to the Parish (or group of Parishes) is required on initial sale of the dwelling, as considered appropriate depending on the circumstances of the development. This part of the cascade can be removed where only a connection to East Suffolk is required for all disposals.

⁵¹ 'subsequent' may be removed where a local connection to East Suffolk is required on ALL disposals, with no additional restrictions for the initial sale



Appendix 3 Vacant Buildings Credit

The following considerations will apply in determining whether Vacant Buildings Credit will be granted:

Is the site brownfield? The definition in the NPPF Glossary for previously developed land is “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. “

Is the building vacant? Applicants will need to show that the building is currently vacant and has not been in continuous use for any 6 month period within the preceding 3 years from the day the planning application is validated. Evidence such as Council Tax or Rates records will be required to determine whether or not a building is vacant.

Is the whole building vacant? If part of the building is occupied or has been occupied within the last 3 years then it will not qualify.

Has the building been made vacant for the sole purpose of redevelopment? Vacant buildings credit will not be applied to buildings that

have, so applicants will be expected to demonstrate that the vacancy has arisen for other reasons.

Has the building been abandoned? The onus will be on the applicant to demonstrate that a building is not an “abandoned building”. The applicant should have regard to the guidance contained in the Planning Practice Guidance which sets out the four relevant factors to consider:

- the condition of the property
- the period of non-use
- whether there is an intervening use; and
- any evidence regarding the owner’s intention

Is the proposal covered by an extant or recently expired planning permission for the same or substantially the same development, or has there been an application submitted but not determined since the vacant buildings credit was reintroduced and vacant buildings credit not sought? Vacant buildings credit will not be applied in these circumstances.

Calculating the Credit

Once the Council concludes that vacant buildings credit should be applied, the following process will apply:

1. Confirm to the applicant that the vacant buildings credit will be applied
2. Calculate the Gross Internal Area (GIA) floorspace of the existing building/s as a proportion of the proposed GIA floor space of the



proposed redevelopment to give the Credit Proportion (Note: for wholly residential schemes this will be the total GIA of all proposed dwellings, for mixed use schemes the GIA of the proposed future residential elements only will be used). All calculations will be rounded to the nearest square metre

3. Apply this Credit Proportion as a reduction to the Affordable obligation

Where a vacant buildings credit calculation results in a part dwelling requirement this will be rounded up to the next whole affordable dwelling, e.g. a requirement for 1.25 affordable dwellings after vacant buildings credit has been applied will be rounded to 2 whole affordable dwellings.

Worked example of the application of the credit:

- A proposal to provide a 25 unit (1875sqm @ 75sqm each) 2 bed housing scheme on a Brownfield site on which currently sits a vacant building of 300sqm.
- Where the scheme should normally provide 7.5 – rounding to 8 AH (@30%)
- The process is simply to apply the Credit Proportion, or as an example:
- Credit Proportion is $(300\text{sqm} / 1875) = 0.16$ proportion or 16%. Therefore 16% shall be deducted from the on-site affordable housing requirement as follows: 16% of 8 AH = 1.28. 8 minus

$1.28 = 6.72$ rounds back up to 7 Therefore the total number of affordable units required is 7.

For off-site contributions which have been exceptionally justified, the Council's off site affordable commuted sum (see Chapter 5) shall be applied to the net number of affordable dwellings which would be required after the credit has been applied.

The affordable housing obligations will be calculated as a representative mix of the overall residential development for the purposes of calculating any subsequent commuted sum.



Appendix 4 List of Photographs

All photographs are sourced by East Suffolk Council, unless otherwise stated. The locations of photographs used in the document are listed below

- Front cover – clockwise from top left:
Felixstowe; Framlingham; Halesworth; Southwold; Brampton
- Chapter 2 title page – Halesworth
- Chapter 3 title page – Felixstowe
- Chapter 4 title page - Southwold
- Chapter 5 title page – Lowestoft
- Chapter 6 title page – Brampton
- Chapter 7 title page – Southwold
- Page 37 – Goldsmith Street, Norwich
- Page 40 – Former Deben High School site proposed development, Felixstowe (Source – Tate Hindle Architects for East Suffolk Council) www.tatehindle.co.uk
- Page 42 – Former Deben High School site proposed development, Felixstowe (Source – Tate Hindle Architects for East Suffolk Council) www.tatehindle.co.uk
- Page 47 – Goldsmith Street, Norwich
- Page 48 – Brampton
- Chapter 8 title page - Bawdsey
- Chapter 9 title page – Framlingham
- Chapter 10 title page – Framlingham
- Chapter 11 title page - Felixstowe

Write to us



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Appendix B**SUMMARY OF DEVELOPER RESPONSES TO
SCRUTINY REVIEW CONSULTATION****Justin Coote BSc (Hons) MRICS, Director, Badger Building (E. Anglia) Ltd**

We very much appreciate the invitation to offer our thoughts in respect of the provision of Affordable Housing requirements on new developments. However, it is difficult to consider Affordable Housing in isolation of the other requirements/obligations that have to be considered when bringing a potential development forward, as they all contribute to how any development proposal is put forward.

The Local Plan includes policy WLP8.2 – Affordable Housing, which sets the affordable housing requirement based on the location of the proposed development. The Local Plan policy is viability tested and set at a level which is deliverable. Increasing the affordable housing on a development puts pressure on other areas. Land value is one variable which can be used to balance the provision of additional affordable housing. However, landowner expectations on land value are such that if anticipated values are not achievable they will not sell the land and the development will be stymied. Another variable is the developer profit, however development carries risk and therefore if the profits level are not reflective of the risks involved then again the development will not be viable and not be delivered. Lenders will have an expectation that a certain level of profit is achievable, if this is not the case then development finance will not be forthcoming. Profit levels of 15-20% are considered acceptable.

Affordable Housing delivery is subsidised by either the open market housing or grant. Grant cannot be used to subsidise Affordable Housing on private developments and so it is the open market housing that supports the delivery of the affordable housing. Affordable housing payments received from HA's, RP's or indeed LA's do not generate any contribution to land value and often do not cover the actual build cost. As mentioned, we as private developers cannot cover off losses with Government grants, hence levels need to be balanced to ensure viability and thus actual delivery. Any Affordable Housing delivered must be provided to a Registered Provider (RP). Depending on the location of the development there will be varying levels of interest from RP's willing to acquire the Affordable Housing. This will be a factor in the level of RP offer that a developer is able to achieve which in turn will have a bearing on the scheme viability. The number of RP's interested in certain locations within the Local Authority is limited. East Suffolk itself is a stock holding authority and could be more proactive in assisting developers with their viability appraisals of developments and in bringing sites forward.

Developer margins, now more than ever, are being squeezed from all directions. Significant material and labour price increases, rising finance costs, more onerous, but welcomed, legislation in relation to build standards and huge increases in infrastructure costs. This is all coupled with a sharp reduction in house prices generally, which has resulted in viability being pushed to the limits on many schemes. Should affordable housing levels be increased further and on an already delicately balanced viability matrix, this will only have an adverse effect on delivery. We are sure the Authority appreciates the issues developers such as ourselves face, with their own challenges in balancing their own housing stock levels.

On the whole, we feel that the current levels of affordable housing required by policy are just about manageable. They allow us to bid for land to an acceptable level for private landowners and deliver a good level of subsidised (by open market) affordable housing, that comply with the necessary policies, standards and legislation.

Phil Hardy, Town Planner MRTPI, Persimmon (Anglia)

Views on the Council's processes - The Strategic Housing Market Assessment (SHMA) provides guidance on the type of affordable housing needed in the Waveney Local Plan area including the level of housing required and size and tenure of homes. The latest SHMA for the Ipswich and Waveney Housing Market Areas indicates that 50% of affordable housing should be affordable rented and 50% should be intermediate affordable housing tenures. This is reflected in Policy WLP8.2 of the Waveney Local Plan adopted in March 2019 which requires 50% affordable rent and states that only in exceptional circumstances can the level and tenure of affordable housing be varied where it can be satisfactorily demonstrated that a different tenure mix or lower percentages of affordable housing are required to ensure the site remains financially viable. ***It is important to note that the SHMA was adopted in 2017, however, so is therefore 6 years out of date now.*** In the absence of a more up to date evidence base, we would recommend that until a new SHMA is adopted, there should be more flexibility in planning decisions relating to the affordable housing mix.

Challenges developers face in meeting these requirements – The cost of materials in housing construction has risen significantly since the global covid pandemic, the cost of living crisis and the war in Ukraine. As such, we would urge more flexibility in agreeing affordable housing requirements in each application. If a viability assessment in line with guidance in Appendix 5 of the Waveney Local Plan adopted in March 2019 is required for every scheme where a lower affordable housing percentage is proposed than required by policy, this may significantly delay many housing schemes and adversely impact on housing delivery and achieving housing targets. The adoption of the Local Plan in 2019 occurred prior to the start of the global covid pandemic, the cost of living crisis and the war in Ukraine, therefore the way they have impacted on viability of schemes is worthy of consideration.

Martin Aust, Director of Pathfinder Development Consultants on behalf of Crocus Homes

Crocus Homes are a local housebuilder, who build distinctive homes, rich in character, offering energy efficient modern living, with real focus in ensuring integration of schemes with the local surroundings. They are wholly owned by Registered Provider (RP) Saffron Housing Trust, with all their profits covenanted back to their shareholder to enable them to deliver more affordable homes or enhanced services to their tenants.

Pathfinder are a consultancy specialising in development economics, assisting in the delivery of affordable housing, and site appraisal, land acquisition, and development within the east of England. Our clients include national and regional house builders, as well as local developers, and land promotion organizations as well as individual landowners.

In this brief paper I seek to explore the impact of delivering affordable housing through S106 agreements and other mechanisms to increase the supply of affordable housing.

The need for realistic land values and profits:

The difference between gross development value (GDV - the total value of the homes to be built) and total cost equates to a residual land value. That residual land value has to be sufficiently attractive to the landowner to release the site for development. Landowner expectations are a very important element in the voluntary release of land for development. If the residual land value is not sufficient the development will simply not come forward.

Financial institutions require a developer to demonstrate a sufficient margin (anticipated profit), to protect the lender in the case of changes in prices or development costs. They will also consider a wide range of other factors, including the amount of equity the developer is contributing (both on a loan-to-value and loan-to-cost basis), the nature of development and the development risks that may arise due to demolition works or similar, the warranties offered by the professional team etc. The PPG says *'For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers. Anticipated profits at levels lower than this will simply lead to projects being un-fundable.*

Appraisals under pressure:

House prices and therefore the GDV of a project are under pressure. The Nationwide House Price index reports a drop in values over the last year on average of 3.13%. Put simply this reduces the ability of a scheme to be viable.

However costs have risen. The BCIS all in tender price index shows that over the last two years build prices have risen by 15.8%. Equally the cost of borrowing development finance has risen sharply adding further cost just as values have reduced pacing all developments viability under pressure. Furthermore standards of construction through the Building Regulations are being driven upwards (for all the right reasons) but the increased costs do not lead to an increase in values.

How Does This Effect Affordable Housing Delivery:

The percentage of affordable housing to be delivered by developers is set in the local plan having being subject to rigorous viability testing and subject to public examination.

One of the constraints on the proportion of affordable homes that is viable is what Registered Providers will pay developers for these homes. The Local Authorities CIL Viability Assessment of October 2021 assumed that for affordable rented homes this was just 50% of market value, a level that may cover the build cost of the homes but not generate any land value, contribution to site wide infrastructure or profit. In our considerable experience of working for developers locally in sourcing RP partners for such schemes this assumption is generally in line with the market. Indeed, RP offer prices have in general also reduced in the last 12 months within Suffolk and Norfolk by typically 5% (See appendix 1 for an explanation).

A greater proportion of Affordable Housing would therefore reduce land values or profits to a level that would see development simply not be brought forward.

How to Improve the delivery of Affordable Housing:

The predecessor authorities to East Suffolk had long track records of working with RP's (and there often local developer partners) to bring forward 100% affordable housing schemes over many years. Delivery numbers had been significant but have gradually reduced over more recent years.

Such projects have the ability to leverage in Homes England grant funding ensuring their viability and in some locations (those sites not as attractive to private housebuilders) to generate land values at the market level. The success of this strategy in the past was built upon a strong enabling function with senior officers at the council committing to close partnership working with RP's and others, utilising land in their ownership etc.

Conclusion:

It is difficult to see how a greater proportion of affordable housing can be secured through S106 agreements by Housebuilders without viability being impacted in a way that will cause developments to simply not come forward. However in the district there has been a strong track record previously of delivery through 100% affordable housing schemes which if rediscovered may offer a robust solution to increasing the supply of affordable housing in East Suffolk.

Note - RP Offer Prices on S106 Affordable Housing

RP offer prices have reduced by approximately 5% in the last year due to the following factors:

1. Government policy

- Rents have been allowed to rise by CPI+1%. RP's base business planning around this assumption. However, to protect residents from cost-of-living pressures, the Government has introduced a rent cap for 2023 at a maximum rent increase of 7%, in real terms a rent reduction. Lower rents result when capitalised in lower purchase prices offered for rented homes. Of course, this has occurred as real cost pressures are faced by RP's.
- Shared Ownership homes have suffered from both a reduction in market values and more cautious appraisal assumptions introduced by RP's following the changes to the new model Shared Ownership lease placing increased liability on RP's (around maintenance expenditure and smaller staircasing tranches being permitted). These changes also lead to some seeing SO as a higher risk leading to more cautious appraisal assumptions and therefore lower offers.
- Government policy around RP stock becoming carbon neutral by 2040, and the aftermath of Grenfell and the recent well publicised controversy over damp and mould issues have pushed RP's to generally increase maintenance budgets removing funding from development – smaller budgets leading to less development.

2. Competition

A marketplace exists in RP's bidding to housebuilders to acquire their affordable housing delivered through S106 agreements. If there are fewer RP's operating in the East Anglian development market for S106 schemes, with smaller programmes prices fall. Where there is less competition RP's can offer less and still deliver the number of homes in their programmes. Some examples:

- The above rent restrictions and their impact on the financially weaker RP's is real in reducing capacity.
- Some RP's have had success in securing land directly for their own development programme for the next 5 years. The demand for S106 opportunities has therefore dropped massively from these

RP's. Such strategies are pursued as it gives RP's more control of what affordable housing is delivered, when it occurs and to what standard.

- In general, the For-Profit RP's (who in recent years had become part of the marketplace) have either withdrawn or become very uncompetitive in face of higher interest rates and lower rents. Achieving target yields becomes impossible.
- It's worth noting once RP's get to the point in their Business Planning cycle that they need to refinance current deals are very unattractive. RP's often deliberately cut the programme when rates are high to stave off needing to refinance hoping rates reduce.
- There is a pattern of RP's withdrawing to their core historic areas of operation when programmes get smaller, and/or seeking only larger projects as ways of considering fewer opportunities. Neither of these mechanisms help with levels of competition.
- Historically there has been relatively low numbers of RP's operating in East Anglia.