

Consultation Draft Revised Affordable Housing SPD

Environment

June 2022

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Contents

- 1. Introduction4
- 2. Borough Context4
- 3. Key Policy Requirements7
- 4. Type of Affordable Housing10
- 5. Supported and other housing priorities13
- 6. Former Employment Sites14
- 7. Design15
- 8. Funding16
- 9. Assessing Financial Viability.....17
- 10. Viability Review Mechanisms24
- 11. Process/Transparency.....26
- 12. Calculating off-site contributions from small sites27
- 13. Legal Agreements30
- 14. Checklist for Development Management Process31

Annex A – Affordable Housing Commuted Sum Calculation Guidance Notes and Pro Forma

Annex B – Viability Appraisal Data Sources

Annex C – Step by Step Guide to the Affordable Housing Commuted Sum Calculator

1. Introduction

- 1.1. This SPD is primarily for applicants, agents or developers undertaking residential development to set out guidance on requirements to contribute towards affordable housing. It combines advice from the Council's planning and housing services. This will need to be addressed in all new housing developments, changes of use for wholly residential and mixed-use sites incorporating residential use, where planning permission is required. Affordable housing can also be provided in other ways, outside of the scope of this SPD.
- 1.2. Consultation on the draft of this SPD will take place during June/July 2022. The consultation responses will then be analysed and changes made to the final version of the SPD where appropriate. Once adopted, this SPD will supersede the existing 2014 version and will be a material consideration in determining planning applications.
- 1.3. The SPD supplements policies within the Local Plan (2018). The Local Plan sets out in Policy LP 36 the overall approach to affordable housing and more guidance on implementation.
- 1.4. The SPD sets out guidance in the current policy context. Much of the guidance is also shaped by other policy documents, such as the National Planning Policy Framework (2021), National Planning Practice Guidance (PPG) (2021), London Plan (2021) and the Greater London Authority's (GLA) accompanying Affordable Housing and Viability SPG (2017). Also of relevance is the Council's approach to Planning Obligations, set out in the Planning Obligations SPD (2020), and the Council's Community Infrastructure Levy (CIL). Since the adoption of the previous iteration of this document, the Royal Institute of Chartered Surveyors (RICS) has published 'Assessing Viability in Planning Under the National Planning Policy Framework 2019 for England' (2021), which sets out guidance to any practitioners involved with Financial Viability Assessments (FVA).
- 1.5. Since the introduction of viability into the planning system, there has been a circularity where land is bought at high values with no thought towards policy requirements, meaning lower levels of planning obligations are delivered. At various levels of policy making there has been a move to combat these issues, through updated guidance. The Council will seek, through this SPD, to secure the maximum amount of affordable housing possible in the borough while having sufficient flexibility to make sure sites are deliverable and the right number of new homes are completed.

2. Borough Context

- 2.1. Research for the Local Plan sets out the evidence base on housing needs and viability, along with housing strategies and evidence including the Council's Housing and Tenancy Strategies, and the Mayor's London Housing Strategy (2018).

- 2.2. The borough has one of the highest average house prices in the UK and a continuing need for affordable housing, particularly for family homes. The Council's Housing and Homelessness Strategy 2021-2026 is the most up-to-date publication of the Council's housing priorities, recognising the commitment to ensure the more vulnerable people of the borough are protected. This demonstrates local needs and the importance of delivering houses for rent in the borough and working within the challenges specific to the borough. Other housing needs are also important priorities for the borough, such as supported housing options, and there are other complementary workstreams, for example to address under-occupation within housing association properties, in order to make the best use of housing stock.
- 2.3. The Council does not directly provide housing, but has a legal duty to provide housing, through partnerships with Registered Providers, to residents falling within certain defined 'priority need' categories (such as families with children), who are homeless or at risk of becoming homeless through no fault of their own. In addition, the Council has an obligation to ensure that vulnerable people and households are housed in accommodation that will provide a safe and secure environment. The Council's Housing Service, in partnership with local housing associations, maintains the Richmond Housing Register, comprising a number of waiting lists which contain the names of households who are in housing need and require re-housing, based on a points scheme to decide priorities for housing. The Council's Tenancy Strategy (2019) sets out information and guidance as to how these priorities can be met in partnership with those providing affordable housing.
- 2.4. Affordable housing is defined in the National Planning Policy Framework (NPPF) Annex 2. This definition incorporates affordable homes for rent, starter homes, discounted market sale housing and other routes to home ownership (such as shared ownership). It should be noted that the Local Plan under paragraph 9.3.13, sets out that due to high property values in the borough, Starter Homes would neither be affordable nor deliverable within Richmond borough.
- 2.5. The NPPF states local planning authorities should address the need for all types of housing, including affordable housing. It states (paragraph 63) that where local authorities have identified that affordable housing is needed, they should set policies for meeting this need on site. It recognises (paragraph 58) that where up-to-date policies have set out the contributions expected from development, planning applications should be assumed to be viable. It is for the applicant to demonstrate the justification for a viability assessment and for the decision maker to judge the weight given to it. The Council considers that this SPD is consistent with the overall NPPF guidance.

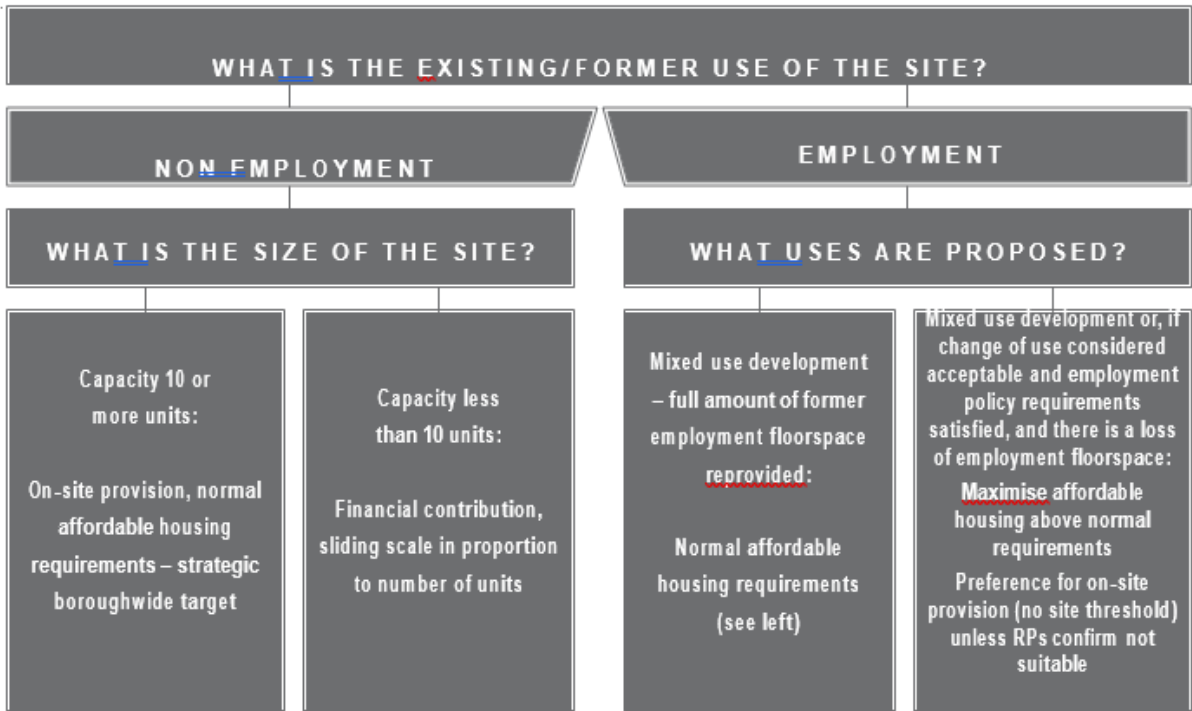
- 2.6. The NPPF and the CIL Regulations set out the tests under which planning obligations should be sought. The three tests are that obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The Council considers that the acute need for affordable housing in the borough has been established, as described above and set out in the Council's strategic housing objectives; the need is so significant that all sites need to contribute. The mechanism for assessing the contributions from individual sites is set out in this SPD; each proposal has to make an adequate contribution towards affordable housing which is directly, fairly and reasonably related in scale and kind to the development proposed. This is considered necessary to make it acceptable in planning terms, and the absence of an obligation may be considered to undermine the Council's housing strategy and harm the provision of affordable housing in the area. Therefore, the Council considers this approach meets the tests set out in the NPPF, given the advice set out in regard to financial viability.
- 2.7. Affordable housing includes social rent, London Affordable Rent and intermediate housing (Shared ownership or London Living Rent). The Council's position on London Affordable Rent is set out in the Tenancy Strategy. The Council's position on intermediate housing is set out in the Intermediate Housing Policy Statement (2017). The Policy Statement sets out the priority and income eligibility criteria for intermediate homes within the borough. There is an annual report to the Council's Adult Social Services, Health and Housing Committee, which sets out updates to the Council's affordable housing guidance on affordable rent levels and affordability criteria for intermediate housing.
- 2.8. There are other affordable products on the market such as Discounted Market Homes and First Homes, which can also contribute to the delivery of affordable housing. However, due to the high land values within the borough, the Council considers that these products do not cater for a range of incomes, especially below those specified in the Intermediate Housing Policy Statement, and therefore are unlikely to meet the borough's priority housing needs. If an applicant wishes to provide this type of product, there will need to be justification as to why and what affordable need it addresses within the borough.
- 2.9. The Council works in partnership with Registered Providers (RPs, also known as Housing Associations or referred to as Registered Social Landlords, RSLs), housing developers and the Greater London Authority (GLA) to develop new affordable housing within Richmond borough. It co-ordinates the development activity of Registered Providers to ensure that properties built are in line with identified local needs and will be offered in accordance with the borough's Tenancy Strategy. The Council is committed to maximise resources, including use of its own

assets, to deliver schemes that are of a high quality of design and meet the needs of the most vulnerable.

3. Key Policy Requirements Overview

- 3.1. All proposals for new housing development or changes of use for wholly residential and mixed-use sites incorporating residential use must address affordable housing requirements.
- 3.2. Different policy requirements apply depending on the capacity of the site (in terms of number of units), and whether or not it is a change of use from employment or produces new housing through the conversion of existing non-employment floorspace. Note that for all sites other Local Plan policies applying to the loss of the existing use would need to be addressed first and are not detailed in this SPD.
- 3.3. Where sites are capable of 10 units or more, affordable housing must be provided on-site. This assessment of capacity will consider, amongst other things, the proposed density and mix of units.
- 3.4. The Council resists the loss of employment land to potentially higher value residential uses and would seek to prioritise the replacement of employment floorspace in mixed-use schemes. In exceptional circumstances, where the Council agrees redevelopment or change of use through a planning application, there is a requirement to increase affordable housing above normal policy requirements, including fully exploring on-site provision.
- 3.5. The Local Plan requires all sites to contribute to affordable housing, wherever a new unit is created, to ensure more equity in sites below and above the threshold for on-site provision.
- 3.6. The Council will seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed-use schemes, having regard to the strategic borough-wide target set out in the Local Plan and the individual circumstances of the site, including the financial capacity to contribute towards affordable housing.
- 3.7. In line with the London Plan Policy H4, the Council will expect that sites on public sector land deliver at least 50% affordable housing. Marketing for the disposal of public sector land should clearly set out this requirement. For public sector land, the applicant/developer will need to provide strong justification as to why a scheme would not be able to meet the 50% policy requirement.
- 3.8. In considering the maximum amount that can be achieved on site, the Council will have regard to the Local Plan, the suitability of the site for different forms of provision and the economics of site development.

- 3.9. The Council will nonetheless expect developers to have taken into consideration any abnormal costs in developing a site before acquiring the land. Policy requirements and associated costs should be factored into negotiations on land values in the borough, addressing affordable housing in addition to other required planning obligations. As set out below, for any financial viability assessment that is submitted during the planning process the benchmark land value will be based on existing use value and in extraordinary circumstances alternative use value. The price paid for a site will not be accepted as an argument to reduce obligations.
- 3.10. In addition, the Council will expect all developers to identify and get the Council's approval of a Registered Provider to support the delivery of affordable housing on site. In this way negotiations on viability will allow the resources available to the Registered Provider to be considered early in the planning process. Viability appraisals will need to demonstrate how affordable housing is being maximised with Registered Providers, optimising their use of all resources including borrowing and grant as and when it is available. The values used for affordable housing within the financial viability assessment should be informed by these discussions.
- 3.11. The Council is sometimes in a position to offer additional resources to support affordable housing delivery. Developers, working with Registered Providers, should ensure that there has been early engagement with the Council's Housing Development Manager on potential resources to support a scheme.
- 3.12. The below is a flowchart showing the policy requirements according to the former use and size of the site. Note that for all sites, other Local Plan policies applying to the loss of the existing use would need to be addressed first.



- 3.13. Generally, the percentage of affordable housing is calculated on the number of units. Paragraph 9.3.6 of the Local Plan (2018) states that where affordable housing involves dwellings with larger numbers of habitable rooms per dwelling, or different sizes of habitable rooms with different tenures, it may be more appropriate for the calculation of the affordable housing proportion to be in terms of habitable rooms or floorspace. The affordable housing provision (on-site or off-site) or any financial contribution should be calculated in relation to gross rather than net development, i.e. it should be based on the total number of units proposed in the final development. Calculations, including determining the level of financial contributions in lieu of affordable housing units, should always relate to the specific scheme which is the subject of the planning application and not a hypothetical alternative scheme.
- 3.14. The tenure mix set out in Policy LP36 for affordable housing provided in the borough is 40% housing for affordable rent and 10% intermediate housing. This differs from the current London Plan in requiring more rented accommodation, however, it was found to be a sound approach at the Council’s Local Plan Examination as it accords with the Council’s priorities and evidence base, and the Mayor’s Housing SPG (2016) explicitly allows for such local targets.
- 3.15. The current priority in Richmond borough is for larger rented family units, and smaller one- and two-bedroom homes for intermediate housing. Applicants/agents/developers are advised to seek the views of the Council’s Affordable Housing Enabling Officer, as early as possible in the process, to understand current requirements – with regard to tenure, unit size and the potential for any financial support from the Council’s own resources.

- 3.16. Housing and planning policy officers should be involved in assessing on a site-by-site basis that the appropriate affordable housing mix will be delivered, including a suitable balance of intermediate housing to meet different levels of affordability, and having explored different funding sources prior to an application being submitted. The Council will consider rental levels for affordable units on a scheme-by-scheme basis, seeking to ensure affordability is maintained for future tenants and having regard to the impact of welfare reforms, for example the benefit cap. The Council offers formal pre-application advice, as set out in Section 15.
- 3.17. The Council does not work with any one Registered Provider. The Council will particularly support Registered Providers who have a local presence or can demonstrate a good track record of developing/acquiring affordable housing and managing and maintaining affordable homes. A Development Delivery Agreement¹ between the Council and Richmond Housing Partnership (RHP) is in place to increase affordable housing delivery. The Council meets regularly with Registered Providers and can provide contact details of development managers on request (see Further Contacts at the end of this SPD). To develop site proposals, particularly on larger schemes, the Council will expect all developers to ensure that they identify and get the Council's approval of a Registered Provider to support the delivery of affordable housing on site.

4. Types of Affordable Housing

- 4.1. Affordability is an important issue in the borough and the Council will therefore seek a balance of tenures (as defined in the NPPF and the London Plan) to enhance choice:

Social Rent: owned by local authorities or Registered Providers, for which guideline target rents are determined through the national rent regime. The Council's priority is larger family homes for rent, although where appropriate the Council would seek to provide smaller low-cost rent homes that would release existing larger family sized rented housing for the Council to nominate. This will be considered on a scheme-by-scheme basis.

London Affordable Rent: let by local authorities or Registered Providers of social housing to households who are eligible for social rented housing. The target rents are determined by the GLA² and updated yearly. The Council's priority is larger family homes for rent, see further details

¹ https://www.richmond.gov.uk/news/september_2021/new_development_delivery_agreement_announced_for_affordable_housing

² Homes for Londoners: Affordable Homes Programme 2016-2023 | London City Hall

below with regard to the Council’s position on London Affordable Rent particularly on larger family homes.

Intermediate: Homes available for sale or rent at a cost above social rent, but below market levels. These can include shared ownership or London Living Rent. The Council’s priority is for the majority to be smaller one-and two-bedroom homes for intermediate home ownership, although larger shared ownership homes may also be suitable on specific sites. London Living Rent provides rented homes on stable tenancies with rents based on a third of local household incomes. The tenant also has the opportunity to purchase their home on a shared ownership basis.

First Homes: Government introduced through a Written Ministerial Statement and Planning Practice Guidance a new type of affordable housing referred to as First Homes, which are properties that can be discounted by 30/40/50% from their open market value at a price no higher than £420,000. As Richmond borough has some of the highest housing prices in the country and a need for larger affordable rented products, it is unlikely that First Homes will be affordable within the borough. As this is a new policy, it is not specifically referenced in the Local Plan, which predates the guidance, and the local circumstances to evidence this policy position are being taken forward in the preparation of the new Local Plan. Until weight can be given to the emerging policy, applications submitted with First Homes will be assessed on a case-by-case basis, taking in to account the priority housing needs within the borough (affordable rented accommodation) and viability. The Council would welcome discussion on this at pre-application stage for site-specific proposals.

Starter Homes: This is an affordable housing product that is set at 80% of market value up to a maximum value of £450,000. As set out in paragraph 9.3.13 of the Local Plan (2018) the Council does not consider this product to be affordable within a local context and would be rendered unaffordable for the majority of residents. Although referred to in the NPPF, the Government moved away from putting in place the necessary secondary legislation and regulations to deliver.

Richmond’s position on the affordable housing products

- 4.2. Housing provided on a shared ownership basis must be affordable to households on a low to moderate income. The current Intermediate Housing Policy Statement (IHPS) sets out the Council’s position with regard to the prioritisation of applicants for intermediate housing and the income eligibility range. In response to the rising cost of intermediate housing, an upper cap, in line with the GLA cap of £90,000 household income, will be permitted. Regard will be had to the periodic review of figures set out by the GLA. The Council would however expect

that two thirds of scheme applicants have incomes under £50,000 and these households should be prioritised. These caps are not static and are subject to change; the Intermediate Housing Policy Statement is reviewed periodically and there is an annual report to the Council's Adult Social Services, Health and Housing Committee, which sets out updates to the Council's affordable housing guidance on affordable rent levels and affordability criteria for intermediate housing. The Council requests that there is early engagement from Registered Providers and developers to make sure the right affordable housing is provided at the right level. The Council's Intermediate Housing Policy Statement also sets out guidance on the marketing of shared ownership homes by Registered Providers to help prioritise sale to local people and monitor the take up of units by local residents. In relation to London Living Rent, which is another intermediate housing product, the Council expects that these homes will be subject to the same criteria as Shared Ownership or any other intermediate policy save for the income cap is set at £60,000 and the rents can be no more than those published annually by the GLA by ward and number of bedrooms within the property.

- 4.3. All costs are taken into account when assessing the level of affordability. Affordability to tenants should not be compromised by potentially high service charges. It is therefore expected that service charges should be limited, and total housing related costs do not exceed 45% of net household income (i.e. after deductions). Homes that do not meet the above definition of affordable housing such as "low-cost market housing," may not be considered as affordable housing for planning purposes.
- 4.4. The Council's adopted Housing and Homelessness Strategy (2020) and Tenancy Strategy (2019) expect that rented affordable accommodation is set at London Affordable Rent levels. These rental levels are set by the GLA and are subject to change, based on the increase in Consumer Price Index (CPI) for the previous September plus 1%. The GLA Affordable Homes Programme 2016-2021 provided grant funding for Registered Providers providing London Affordable Rent properties. The GLA's new Affordable Homes Programme 2021-26 will provide grant for Registered Providers delivering properties at social rent levels. As the new GLA funding programme moves forward, the Council will consider rental levels on a scheme-by-scheme basis. This will provide Registered Providers with the flexibility they need to fulfil their GLA housing contracts whilst ensuring that the product they deliver at a local level is affordable and relevant to the housing needs in the borough. Registered Providers delivering homes at either London Affordable Rent or social rent levels are able to explore, with supporting viability evidence, the opportunities of working with the Council as an active

partner to request funding from the Council to support new schemes where additionality can be demonstrated (see also paragraph 9.5).

- 4.5. The London Plan and the Mayor of London’s Affordable Housing and Viability SPG set out a threshold approach³, which means that schemes providing 35% affordable housing with a tenure compliant mix do not need to provide viability information and are not subject to a late stage review (refer to paragraph 10.3). This is not addressed in the current Local Plan and the new Local Plan will set out the local circumstances to evidence a policy position. Until weight can be given to the emerging policy, the Mayor’s threshold approach will apply on referable schemes; on schemes which do not meet the referable criteria for call-in by the Mayor, the Council will continue to seek to influence site-specific viability discussions and to establish, through discussion with housing and planning officers, whether proposed tenure and affordability will reflect local needs, and if there is a funding opportunity to enhance delivery.
- 4.6. The NPPF and the London Plan set out that affordable housing should include provision for the home to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision. The Council will secure all affordable housing in perpetuity through detailed legal agreements (S106 Agreements). The legal agreement will also secure the phasing of the delivery of affordable housing so that the private units are not all built out first as a priority and the affordable housing left to the end of the development cycle.

5. Supported and other housing priorities

- 5.1. The Council is committed to ensuring the more vulnerable people of the borough are protected. Other housing needs are also important priorities for the borough, such as supported housing options including for example extra-care housing providing independence and choice to adults with varying care needs. Local Plan Policy LP 37 covers a more specific type of community needs housing and is not related to general affordable housing needs.
- 5.2. Current housing priorities include:
 - remodelling of older peoples sheltered accommodation to provide self-contained units; extra care housing which in some cases can be created from remodelling existing sheltered accommodation.
 - private sheltered and extra care accommodation (but this would be a lower priority than affordable housing);

³The London Plan 2021 | London City Hall

- supporting increased housing options appropriate for people with learning disabilities;
- improving mental health move-on accommodation to provide greater choice in supported housing options;
- student accommodation to meet needs of institutions within the borough (but this would be a lower priority than affordable housing).

5.3. Any proposal would need to be considered on its own merits, based on available evidence at that time. In some cases, the specific needs of a particular client group may be prioritised above general needs affordable housing, while other types of accommodation would be a lower priority than affordable housing, in which case Policy LP 37 would be applied where appropriate to secure an appropriate contribution towards affordable housing. Schemes should be discussed at an early stage with housing and planning policy officers to ensure priority housing needs are addressed, in line with the Council’s relevant housing strategies and research. If there is no evidential need arising within the borough for a particular proposal, other priorities should be addressed.

5.4. Build to rent and large scale shared-living are new forms of development that are becoming increasingly popular within London and other major cities around the UK. The current Local Plan does not specifically reference these types of development but is clear that any private rented sector schemes that do not contribute to the higher priority need for affordable housing are unlikely to be supported due to the overriding need for affordable housing; therefore, it is clear that the Council considers them to be a lower priority. Any application will need to make the justification as to why conventional housing that could deliver higher priority affordable housing could not be provided. If a scheme were to be deemed acceptable, the Council would expect any affordable housing element within the scheme to be compliant with London Plan Policy H11 and H16.

6. Former Employment Sites

6.1. If a site was formerly in employment use, then the requirements of Policies LP 40-42 (depending on the existing employment use) need to be addressed first, before housing is considered. To support a strong sustainable economy, sufficient well-located employment land should be retained or redeveloped to meet modern business needs. The Council seeks to protect employment floorspace and does not wish to encourage the change of use of employment sites to potentially higher value residential uses. This approach is considered to be in accordance with the London Plan and the NPPF, based on strong economic reasons. Full information will need to be provided for the Council to consider that the retention of a site

for employment use is not practicable and proposals for alternative employment generating uses are also not appropriate following marketing.

- 6.2. In those exceptional circumstances where the Council agrees a change of use, any residential use replacing a loss of employment floorspace is required to increase affordable housing above the normal policy requirements set out in Policy LP 36. The lower existing use value of employment land means that it is likely that a high percentage level of affordable housing will be viable on these sites, which as a public benefit could potentially compensate for the loss of employment. This approach seeks to obtain the greatest reasonable amount of affordable housing from redevelopment of the site.
- 6.3. The preference remains for on-site provision. Often these are small sites, and particularly if a conversion is proposed, the Council recognises it can be difficult to meet policy requirements on tenure and mix or constraints and in complying with design and space standards. The Council is keen to be involved in early discussions, and with Registered Providers, to find the right proposal for a scheme to reflect site constraints and the location. A contribution to off-site affordable housing provision would only be considered acceptable to the Council if there is evidence from a number of Registered Providers with full and proper reasons for the unsuitability of on-site provision, having properly explored alternative options and funding opportunities.

7. Design

- 7.1. The Council encourages the early involvement of Registered Providers in site discussions when there is still an opportunity to influence the design of a scheme.
- 7.2. The approach to the design of affordable housing should be genuinely tenure blind to meet the same high quality and sustainability standards as private housing. On mixed tenure schemes, the affordable housing must be of the same style and materials so as to appear visually consistent and indistinguishable from the private housing. Policy requirements are set out in the Council's Local Plan, including Local Plan Policy LP 35 and the Council's Residential Development Standards SPD. There should also be equality of access to amenity or communal space for all tenures; communal gardens and play areas should not be segregated by tenure.
- 7.3. As with private housing, 90% of new build homes should be to Building Regulation Requirement M4(2) 'accessible and adaptable dwellings' and 10% of all new housing should be to Building Regulation Requirement M4(3) 'wheelchair user dwellings'. The Council's preference is for low cost rented wheelchair accessible housing to meet M4 (3)(B) standards. Guidance should be sought from the Council's Specialist Housing Occupational Therapist at an early stage in designing wheelchair dwellings and guidance can be provided on meeting

requirements (an informal Accessible and Inclusive Housing overview note and guidance applicable to a site proposal is available).

- 7.4. The Council expects the design of affordable homes to be undertaken in close consultation with a Registered Provider, in order to ensure that the affordable homes can be effectively managed whilst also meeting the design requirements of the Local Plan and guidance outlined above.
- 7.5. Where parking is provided, any differentiation in the proportion of spaces allocated to affordable homes compared with other housing would need to be accompanied by evidence. The Council will endeavour to ensure that for all wheelchair accessible affordable housing there will be dedicated parking within the scheme that provides inclusive access for future residents. The Council may seek the removal of resident permits in Controlled Parking Zones (CPZs) when they are oversubscribed and membership of car clubs for any new units; see Local Plan Policy LP 45 for more details on policy requirements related to parking.

8. Funding

- 8.1. The Council is keen to work with Registered Providers and the GLA to explore funding opportunities and ensure the maximum amount of affordable housing can be delivered. The priority is to work with Registered Providers who are willing to use their available funding to provide affordable housing that meets the Council's stated approach to affordable rent levels and intermediate housing affordability. This SPD is written to reflect the present situation.
- 8.2. Under the current GLA funding programme Homes for Londoners 2021-2026 grant will only be used for additionality, meaning it cannot be used for affordable housing that is secured through a Section 106 agreement, except in exceptional circumstances. This new funding equates to £4 billion (across the whole of London) for named sites (sites already acquired) and an indicative allocation for sites to be purchased within the timescales of the programme. The Council will welcome engagement with RPs to discuss how the grant will be used to make sure that it can deliver the right types of homes within the right locations.
- 8.3. The Council will support bids that use cross subsidy, such as outright private sale, but will require justification for any private market units that are required to cross subsidise provision of affordable rented units and/or to reduce affordable rent levels. However, this should not be at the expense of the number of affordable housing units if top up funding is available from the Council's Housing Capital Programme.
- 8.4. The Council funds a Housing Capital Programme to support the development of affordable housing to meet the needs of borough residents. Capital resources for this programme come

from a variety of sources, including Council funding and S106 financial contributions to the Affordable Housing Fund.

8.5. Support from this funding may be available to help ensure schemes remain viable, particularly to ensure that larger family rented units remain affordable. In determining which schemes should be funded by the Council, the priorities are to meet key objectives in the Council’s plans and strategies, which focus on increasing the supply of new permanent affordable housing and releasing existing under-occupied housing, considering value for money and deliverability of individual schemes.

9. Assessing Financial Viability

9.1. To inform the preparation of the Local Plan, research was undertaken on the impact of policy requirements to ensure that they are reasonable in terms of financial viability. The Local Plan Policy LP 36 sets out that where viability is an issue in providing affordable housing, the onus will be on developers to produce a financial assessment showing the maximum amount that could be reasonably achieved. The National Planning Practice Guidance sets out that where a Council has up-to-date policies, it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

9.2. Before any modelling is done on the viability of a potential scheme, applicants/developers will need to engage with a Registered Provider(s) to inform the inputs used within the assessment regarding affordable housing values. Financial viability assessments that use generic affordable housing values will carry less weight with the decision maker in determining scheme viability.

Methodology

9.3. There are a variety of methodologies used within development appraisals which can determine the viability of a scheme. The Royal Institute of Chartered Surveyors (RICS) advises that the method used should be proportionate to the complexity of the typology or site. The Council considers that the residual valuation method will in most cases be appropriate for use within a financial viability assessment. The residual valuation method takes into an account the value of the property/site after development (referred to as gross development value or GDV) minus the cost of delivering the development. The outcome of this calculation is what is referred to as the residual land value. The simplified equation for this is set out below:

$$\text{gross development value (GDV)} - \text{total development costs (including profit)} = \text{residual land value}$$

- 9.4. The Council will expect that any residual valuation follows the guidance set out in RICS 'Assessing Viability in Planning under the National Planning Policy Framework 2019 for England' and 'Valuation of Development Property'. If an alternative method or model of appraisal is used this would need strong justification and the council would welcome discussions prior to an application being made. The residual should be shown within the financial viability assessment as both a residual land value and a residual profit.
- 9.5. For a scheme to be deemed viable it must provide the landowner with a reasonable return to incentivise them to release their land for development. This is referred to as the benchmark land value. The benchmark land value is the existing use value (EUV) of the site with a premium added to incentivise the landowner. This is commonly referred to as EUV + approach. Under no circumstances will the Council assess the viability of a scheme based on the price paid for a site.
- 9.6. If a scheme is shown to be producing a large deficit, where the cost of developing a site is higher than the value produced, the Council will expect justification as to why the developer would be taking forward the site and how this would be commercially viable.
- 9.7. There is a range of viability modelling software that can be used to undertake a viability appraisal, such as ARGUS, Proval or the HCA DAT tool. The Council expects that on request a full working model of the appraisal is submitted to the Council so that the Council and/or its advisors can properly interrogate and test the model to allow for a thorough assessment. This should include any cash flow or phasing models.

Benchmark Land Value

- 9.8. If the residual land value (see paragraph 9.3) is equal to or above the benchmark land value, then the scheme will be considered viable. The Council considers that the EUV + approach is the most appropriate way to assess the viability of a site and determine benchmark land value. Only in very special circumstances would the Council consider the use of the alternative use value (AUV) approach. Both methods of determining benchmark land value are set out below.
- 9.9. The EUV+ approach allows the Council to clearly assess the uplift in value arising from the grant of planning permission and allows the comparison of the value of a scheme in its current state to that which has achieved planning permission.
- 9.10. The financial viability assessment must also include two cross checks of the benchmark land value as set out in RICS guidance. The first is found by providing a policy compliant residual land value. The second is the market comparison approach, which involves providing evidence of land transactions adjusted for policy compliance.

Existing Use Value

9.11. Establishing an existing use value can be quite complex. RICS guidance sets out how existing use should be valued in the context of the PPG and the Council will defer to this guidance. The most salient points are set out below. Applicants/developers must provide evidence to support their determination of EUV and where they have obtained their sources of information on rental and capital values of land and property. The list below is an example but is not exhaustive:

- Land registry records of transactions,
- Real estate licensed software packages,
- Real estate market reports,
- Real estate research,
- Estate agent websites,
- Property auction results,
- Valuation Office agency data, and
- Public sector estate/property teams locally held evidence.

9.12. When looking at transaction data for comparable sites this will need to consider and disregard any hope value for developments that require planning permission. If a building has been left to deteriorate over time in expectation that a development is coming forward with units let on shorter term leases, this will have a negative effect on the value of the EUV compared with a similar site. In a similar way a site which is in need of repair will be valued below a site in good repair.

9.13. Where a site has maintenance, repair or management costs, these will also need to be reflected within the EUV and will need to be set out clearly within the financial viability assessment.

Premium

9.14. The premium (or the 'plus' in EUV+) is the second component of benchmark land value. It is the amount above existing use value (EUV) that goes to the landowner. The premium should provide a reasonable incentive for a landowner to bring forward land for development while allowing a sufficient contribution to comply with policy requirements. It is the minimum return that would persuade a reasonable landowner to release the land for development, rather than exercise the option to wait or any other options available to the landowner.

9.15. There will not be a standardised figure for the premium that will be applicable to all sites across the borough, as each individual site or property within the borough is unique. This will be informed by professional judgement, reflecting circumstances of the site and comparable market evidence. Comparable market evidence should reflect similar site typologies and

current policy requirements excluding any land values which may have been inflated through hope value. Such evidence can also include benchmark land values from other viability assessments.

- 9.16. Sites that have large ongoing liabilities or are in a location that is no longer commercially viable to attract tenants will attract a much lower premium than a site that is in a prime location with a low vacancy rate.
- 9.17. In line with sustainable development goals, premiums used to incentivise landowners should also allow sufficient contribution to help meet with policy requirements.

Alternative Use Value

- 9.18. Another way of determining benchmark land value is through an approach called alternative use value (AUV). This is where the land is valued at a different use to the existing, which can be achieved through a policy compliant alternative scheme. In line with the Mayor of London guidance, the Council will in most cases only accept this approach if there is an extant permission for the site. Applicant/developers will need to demonstrate that this permission is implementable and set out why this scheme has not been pursued.
- 9.19. If the applicant puts forward an alternative use value which is not based on an extant permission, but an alternative scheme is *extremely* likely to be granted permission, an alternative proposal will need to be submitted setting out the costs and values in line with guidance in this document and others which sets out the residual land value of the proposed alternative scheme. This route will only be accepted under exceptional circumstances and where it is shown that the likelihood of planning is very high.
- 9.20. The PPG sets out that where it is assumed that an existing use will be refurbished or redeveloped, this will be considered as an alternative use value when establishing benchmark land value. Valuations based on an alternative use value already include the premium to the landowner; therefore, no premium can be added as otherwise this will act as double counting.

Sensitivity Testing

- 9.21. Although within a financial viability assessment development values and costs are based on present day values, a development usually takes more than 12 months to complete and for larger schemes the programme can run into many years. Within this time period, inputs used within a financial viability assessment can change either positively or negatively depending on the market conditions and the scale of development. Therefore, for any financial viability assessment relating to a major application the Council will require sensitivity testing to be carried out. The sensitivity analysis should assess changes in inputs within the financial viability assessment. For small straightforward schemes this could be quite simple testing as

mentioned above, ranging to simulation modelling or growth analysis for larger more complex schemes.

Information requirements

- 9.22. The outcome of the residual valuation method is sensitive to small changes in the inputs used. Therefore, the Council will require substantial evidence and justification for the values used for the inputs within the assessment as set out below.
- 9.23. The Council will not accept submissions based on values used within the Whole Plan Viability Study. Each assessment needs to be based on the specific circumstances of that case.

Development value

- 9.24. Gross development value (GDV) is the aggregate market value of the proposed development, assessed on the special assumption that the development is complete on the date of valuation in the market conditions prevailing on that date. This is the total of any sales values from residential or commercial units if to be sold outright and/or the rental value of any properties (of any use type) through income capitalisation. Where income capitalization is used, guidance set out in the RICS Valuation of Development Property guidance note should be followed.
- 9.25. Sales values used within an appraisal should be justified with reference to comparable properties and appropriate market evidence. Annex B sets out the types of evidence that the Council will accept regarding comparables. Where other recently sold properties are used as justification of the sales values, these will need to be directly comparable to the application site for the data to be given appropriate weight. If the sold prices are based on existing housing and not new build sales data, then the appraisal will need to make a justification for this and the relationship between existing house prices and new build house prices.
- 9.26. Where the value is being derived from the income capitalization method, for example a rented commercial unit, then comparable data will also need to be given showing the market rental value of other similar properties in the area. There should also be a cross check on the yield used within the capitalisation through analysis of market data. The Council will not accept the argument for a specific yield % on the basis that this is generally what the market accepts without any evidence. Any yield % used within an appraisal will need to be backed up by appropriate evidence. Assumptions on the phasing of rental income (potential rent free periods etc.) should be evidenced by discussions with operators within the market.
- 9.27. Affordable housing values should be based on in depth discussions with Registered Providers who are willing to purchase the affordable units. The value should therefore reflect the offers received from a Registered Provider(s). The affordable housing value should be the maximum value the Registered Provider could offer based on assessment of rental and capital receipts,

any funds used from staircasing receipts or other funding streams, and any income criteria imposed by the Council through the Tenancy Strategy/Intermediate Housing Policy Statement. The appraisal should also reflect the timings of the payment from the Registered Provider to the developer.

- 9.28. If a Registered Provider cannot be secured prior to the application being made or no firm offer is in place, then values should be derived from market evidence of similar transactions between a RP and developer.

Build Costs

- 9.29. For smaller schemes, the Council will accept the RICS Building Cost Information Service (BCIS), which is a publicly available source of cost information and provides cost and price data for the UK construction industry. The values used from BCIS data must properly reflect the type, scale, and location of the proposed scheme. If the BCIS value used has a dataset under 20, or the Council believe that the BCIS values used are not appropriate to assess the scheme, then an elemental cost plan will be requested.
- 9.30. For larger or more complex schemes, the Council will require an elemental cost plan which breaks down the proposed development into its component parts. The cost breakdown should be relevant to the development specification and not based on a generic scheme. If there are elements of the build cost that are higher than standard market values, such as high-end kitchens or bathrooms, this should be accompanied by how these products or installations will affect the sales values.
- 9.31. Schemes should avoid introducing very costly elements within their design that may artificially inflate the build cost of the development while providing no income. For example, by creating large subterranean basement areas for plant and car parking. Such elements would only be acceptable if it allows for other policy ambitions, but the Council will welcome developers to engage early in the pre-application process to discuss these matters.
- 9.32. Abnormal costs, such as contamination or flood risk, should be removed from any cost plan submitted. The value of the abnormal costs should be evidenced and be directly linked to the site and delivery of the development. In line with RICS guidance, elaborate façades or landscaping that the developer chooses to provide without due regard to the increase in value and the optimum development should not be included.

Development profit

- 9.33. For developments to come forward, a developer will need to receive a competitive return for their scheme. The level of profit will reflect the risk profile of the scheme and a variety of other factors including market conditions for both sales and build values. The Council will not set

out in this document a prescribed level of profit for different types of development. It is for the applicant/developer to make a reasoned argument as to why they have chosen their required profit levels stated within a financial viability assessment having regard to site specific circumstances, market conditions and the scheme's risk profile. For example, if a site is being developed with an end user already agreed for a commercial unit, the risk has been greatly reduced and the profit expectation would need to reflect that.

- 9.34. Where a developer has adopted cautious contingency costs or other costs at the upper end of the standard level to reduce their risk profile, the required level of profit should reflect this.

Development finance

- 9.35. The finance costs related to the development should be clearly set out and evidenced to show that they reflect the current market rate. Finance costs will vary over the lifetime of a development and a financial viability appraisal should reflect this. If a scheme has quite a long build period, or is phased over many years, the financial viability assessment can occasionally turn out a finance figure that is quite high as the appraisal assumes interest being accrued for a long period. In this scenario, or where the finance costs are demonstrably high, the financial viability appraisal will need to provide evidence that this is a realistic assumption.

Other costs (legal/sales and marketing/professional fees)

- 9.36. Professional and marketing fees will need to be justified and benchmarked against standard market rates. The costs will usually be applied on a percentage basis but there needs to be a sense check of the actual figures applied within the financial viability assessment.

CIL/Planning Obligations

- 9.37. The Community Infrastructure Levy (CIL) is a levy which authorities can choose to charge on new developments in their area. CIL is used to fund new infrastructure within the borough and gives developers more certainty through a tariff system. CIL Regulations currently specifically exclude the use of CIL to fund affordable housing.
- 9.38. The Mayor of London introduced a London-wide CIL to raise funding towards the delivery of Crossrail. The borough is in the highest band which is currently £50 per sq.m., provided the floorspace is greater than 100sq.m. or a new dwelling is created (see further [guidance](#) explaining calculations and process). The Mayoral levy is chargeable on the date that a chargeable development is commenced in accordance with the terms of the relevant planning permission. The level of the charge is subject to regular review by the Mayor. Exemptions from the levy include when the development is to be used for charitable purposes or social housing, and the Mayor has set a nil charge for developments providing educational, medical or health

services. It has been payable on CIL liable developments from 1 April 2012. This will need to be taken into account in viability assessments.

- 9.39. The Council adopted its boroughwide CIL Charging Schedule in July 2014, which sets out the CIL rates for different types of development in the borough. The rates are set geographically with one rate for a higher band (mainly locations in the north of the borough) and a lower band (mainly locations in the south of the borough). The map setting out the geographical areas can be found in the [Charging Schedule](#). Each year the Council publishes an Infrastructure Funding Statement, which relates to the income and expenditure of both CIL and S106 contributions.
- 9.40. Section 106 agreements will only be able to be applied to affordable housing, some “in kind” infrastructure (e.g. transfer of land or buildings) and financial contributions in exceptional cases where there are site-specific development mitigation requirements necessary to make a particular development acceptable in planning terms that will not otherwise be funded through CIL. As the policy requirements for affordable housing contributions have been taken into account in setting the borough CIL, both payments will be expected, subject to the viability consideration in relation to individual sites as set out above.
- 9.41. The revised Planning Obligations SPD (2020) sets out the Council’s policies and procedures for securing site-specific Section 106 developer contributions alongside the Borough’s CIL. A planning obligations calculator was developed alongside the SPD, which can be used to identify the contributions required for a proposed development.

10. Viability Review Mechanisms

- 10.1. In some cases, a viability review will conclude that a scheme is unviable, and the level of contributions will need to be reduced. This will not always be affordable housing but if the quantum of affordable housing has been reduced from the policy compliant level of 50% on-site with a tenure split of 40% affordable rent and 10% intermediate housing, then the Council will require a review mechanism to be used, secured by way of a legal agreement. The Council has a significant need for affordable housing and will seek to increase the level of affordable housing over the life cycle of a development. The property market may be notably different by the time a scheme is implemented from when it was assessed at planning stage. This could involve fluctuation of property values and build costs within the intervening years.
- 10.2. The Council will apply review mechanisms on all major schemes that do not meet the strategic affordable housing target at the correct tenure mix or for applications that do not meet other policy requirements in full. The aim of the review mechanism is not to enter into an overage agreement but to make sure that the development plan requirements are met.

10.3. The Council will use three types of review mechanism:

An **early-stage review** will be used for all major developments that do not meet policy requirements. If a site has not reached substantial implementation within 18 months of the grant of planning permission, then it will be subject to an early-stage review. To avoid developers using a notional start on site to circumvent the early-stage review, the definition within any legal agreement of 'substantial' will be used. This typically comprises demolition, excavation, foundations etc... A review taking place before implementation means that any identified surplus can be converted into on-site affordable housing. The developer will need to produce a revised affordable housing scheme showing which units will be converted into affordable housing in line with the Local Plan's required tenure split. For example, if the surplus indicates that 10 units could be converted to affordable housing then 8 will be for affordable rent and 2 for intermediate housing.

A **mid-term review** will be used for large scale developments that are built out over a number of phases and will be triggered prior to the implementation of phases. This will follow the same path as an early-stage review and will look to use any surplus found to convert market housing in the upcoming phase into affordable housing in line with the tenure mix of the Local Plan.

A **Late-stage review** will also be used for all major developments that do not meet policy requirements. Unlike an early-stage review this will be triggered once 75% of the development homes are sold; or for a commercial scheme, at a point agreed by the Council. As the development will be close to completion, the Council will not seek on-site affordable housing provision but will request a financial contribution towards affordable housing in the borough if a surplus is found within the review. The Council will ensure through its legal agreement that the sale of 100% of open market homes will be prevented until the review has been carried out and any financial contribution has been paid.

10.4. The GLA's Affordable Housing and Viability SPG (2017), and any subsequent update, sets out the terms of the viability review mechanism and provides formulae within Annex A which the Council will use within its legal agreements.

10.5. The Council will require that any figures submitted as part of the review will be substantiated by clear evidence. For actual gross development values (GDV) and actual build costs the Council will expect to see certified documents showing these values, such as certified sales contract, Land Registry records or invoices and building contracts.

10.6. A viability review mechanism cannot be used by the developer to reduce their level of contributions or make it less policy compliant. If there is a material change proposed by the

applicant/developer that would make a scheme less policy compliant this would need to be made through an application under S106A of the Town and Country Planning Act 1990 if the obligation in question is more than five years old and could not normally be done through a review mechanism. If the applicant is unable to go down the S106A route, then they will need to make a new planning application. A new planning application may not assist a developer in this context if the development has been implemented because an affordable housing contribution may by then have been fixed. If an agreement contains provision for a viability reassessment on completion of a development, then whatever sum is due will be payable in accordance with the final determination of that reassessment.

11. Process/Transparency

- 11.1. Applicants/agents/developers will be required to pay for viability assessments and any cost of the Council's independent assessment (in line with the Councils procurement contract(s)), as set out in Policy LP 36 D of the Local Plan, including any QS review of build costs as set out in section 10.
- 11.2. It is common practice for developers to fund the cost of independent validation. An independent assessment route greatly helps to build confidence for the Council that the stance being taken is reasonable where an exception to policy is being considered and would assist the developer/applicant to address a key area of potential contention. While such assessments are carried out at the expense of the applicant, the decision of which agencies are appropriate to undertake the work remains with the Council. If the Council has to undertake independent assessment on viability that should have been submitted with an application i.e. calculating off-site contributions from small sites or to review additional information in response to an independent assessment, then additional fees may be charged.
- 11.3. To improve the public's support and participation within viability assessments, the Council will require full transparency of all information provided within a financial viability appraisal. Most of the data used should be publicly available or based on standard assumptions. It is highly unlikely that data provided as part of a Financial Viability Assessment will impact on the commercial operations of a developer. It is for these reasons and those identified by case law that the Council will make all Financial Viability Assessments publicly accessible unless the developer can make a reasoned justification that disclosure would meet the tests of Regulation 12 of the Environmental Information Regulation 2004 (EIR) or any other relevant data protection legislation. The presumption is in favour of disclosure, with the PPG setting out that in decision-making regard can be had to the transparency of assumptions behind viability evidence submitted.

12. Calculating off-site contributions from small sites

- 12.1. In the context of Richmond, small sites make a significant contribution to housing supply and the cumulative impact of these sites should contribute to affordable housing provision. Policy LP 36 states that on sites below the threshold of ‘capable of ten or more units gross’, a financial contribution to the Affordable Housing Fund will be sought on sites involving new housing.
- 12.2. Local Plan Policy LP 36 sets out that on sites capable of fewer than 10 units gross, a financial contribution to the Affordable Housing Fund commensurate with the scale of development will be required. For new build development (where there is no loss of former employment floorspace) this is:

Table 1

No of new build units	% of Affordable Housing	No of AH Homes
9 units	45%	4.05
8 units	40%	3.20
7 units	35%	2.45
6 units	30%	1.8
5 units	25%	1.25
4 units	20%	0.8
3 units	15%	0.45
2 units	10%	0.20
1 unit	5%	0.05

- 12.3. The Council acknowledges that conversion schemes are different from new build development sites because development costs can be higher. However, conversions of existing housing can provide an important source of new housing. Therefore, given the priority given to affordable housing provision in the borough, some form of contribution towards affordable housing will be expected from all housing sites, including conversions (whether or not in existing housing use) as set out in Policy LP 36. Having regard to the difference between new build and conversion schemes the contribution will be calculated differently.
- 12.4. The Council will have regard to economic viability, individual site characteristics, the overall mix of uses and other planning benefits. However, as set out in Policy LP 36, the Council “will seek the maximum reasonable amount of affordable housing when negotiating on private residential and mixed use schemes”. The Council will adopt a similar approach to assessing the contributions for new-build developments, adjusted to acknowledge the difference between new build and conversion schemes. This applies to conversions and reversions where there is no loss of former employment floorspace. A financial contribution to the Affordable

Housing Fund commensurate with the scale of the development will be required as set out in the following table:

Table 2

No of converted units	% of Affordable Housing	No of AH Homes
9 units	36%	3.24
8 units	32%	2.56
7 units	28%	1.96
6 units	24%	1.44
5 units	20%	1.00
4 units	16%	0.64
3 units	12%	0.36
2 units	8%	0.16
1 unit	4%	0.04

12.5. Where, in exceptional circumstances, the Council agrees a change of use for former employment sites for residential use, the affordable housing requirement will be increased above the normal policy requirements as set out in Policy LP 36. However, the Council recognises that for small sites where listed buildings (Grade I, Grade II*, Grade II) are subject to conversion from employment to residential, as an exception the contribution sought will be discounted to the normal % set out above. Otherwise for all other former employment sites, where sites are capable of fewer than 10 units gross, by conversion or redevelopment, and it has already been agreed by the Council that on-site affordable housing is not suitable as set out in section 7, a financial contribution to the Affordable Housing Fund commensurate with the scale of the development will therefore be required at the level set out in the following table:

Table 3

No of units replacing employment floorspace	% of Affordable Housing	No of AH Homes
9 units	90%	8.1
8 units	80%	6.4
7 units	70%	4.9
6 units	60%	3.6
5 units	50%	2.5
4 units	40%	1.6

3 units	30%	0.9
2 units	20%	0.4
1 unit	10%	0.1

- 12.6. The SPD sets out an approach which is based on net development cost to identify the contribution that a developer would have put in to provide the relevant proportion of affordable housing.
- 12.7. Annex A is a spreadsheet for calculating the affordable housing contribution, accompanied by guidance notes, including a description of the inputs to the viability appraisal and typical information sources which confirms what the Council requires from an agent/applicant/developer. Whilst the circumstances of an individual site may vary, these will be used as a starting point or for an initial assessment to inform viability. The scheme that is the subject of the planning application will form the basis for this assessment and not a hypothetical scheme. This Annex will be reviewed and updated as necessary. A Step-by-Step Guide to the Affordable Housing Commuted Sum Calculator has also been produced at Annex D. A fee may also be added for monitoring as set out in section 14.
- 12.8. The amount reflects local values and takes account of other development costs, the focus is on achieving financial neutrality in terms of on or off-site provision; and contributions will only be spent on affordable housing that would be in addition to affordable housing that would be provided anyway.
- 12.9. This cost of the affordable housing contribution should be factored into negotiations on land values in the borough. The Council will only consider reducing planning obligations if fully justified through a financial appraisal model. This will be the exception rather than the rule. The Council will expect this contribution towards affordable housing in addition to any other requirements set out in the Planning Obligations Strategy and CIL as outlined in section 10. If, due to viability, the Council will consider accepting a reduction in contributions, consideration will be on a case-by-case basis as to whether to prioritise funding for affordable housing or other priorities such as education and transport. As an alternative to financial contributions, provision could be made on site.
- 12.10. The number of units proposed is related to gross rather than net development i.e. the total number of units proposed in the final development
- 12.11. Conversions are recognised as different because development costs can be higher than with new build. However, this will vary with site specific circumstances. The Council would normally

expect conversions to contribute towards affordable housing, and as with any exceptional costs will consider evidence put forward on viability.

12.12. The same methodology can be used for calculating off-site contributions from larger sites, if the Council agrees as an exception that an off-site contribution is appropriate, and this is a suitable methodology. In these circumstances there would be no multiplier to reduce the scale of the contribution and on larger former employment sites this would be above the normal policy requirements.

13. Legal Agreements

13.1. All affordable housing units will be secured via a legal agreement. Matters agreed through negotiation, including any specified financial contribution, will also be secured via a legal agreement (S106 Agreement or Unilateral Undertaking). A legal agreement would normally cover the following issues:

- Location of the affordable units on the site Number, tenure and size of the affordable housing units.
- Review mechanism, setting out terms of the review and information required.
- Details of phasing of provision of affordable housing units, particularly on larger schemes or those with a mix of private and affordable housing, or mixed-use schemes, to ensure affordable housing units are completed within a reasonable timeframe.
- Any standards which the affordable housing must meet, such as related to sustainability, and wheelchair accessible standards (Building Regulations M4 (3)).
- Terms covering nomination rights, rent levels and affordability thresholds within the definition of affordable housing setting out the appropriate income ranges for the purchase of low-cost home ownership homes.
- Terms to ensure affordable homes remain affordable or for any disposal proceeds to be reinvested in affordable housing.
- Any other site-specific requirements for example, there will often be an obligation for the developer of large residential sites to provide a construction and skills training scheme for that particular development.

13.2. The Council has set out guidance notes and a number of templates for [unilateral undertakings](#) for planning obligations, including a specimen for an affordable housing contribution, which may assist as a starting point for drafting.

13.3. Applicants/agents/developers will be expected to be responsible for their own and the Council's legal costs associated with drawing up planning obligations.

- 13.4. Developers entering into planning obligations will be required to pay a Section 106 monitoring fee, in order to mitigate additional costs incurred by the Council in the administration and monitoring of Section 106 obligations. The monitoring fee is not sought as a planning obligation and the Council will use a tailored approach to setting the fee. Calculation of the Section 106 monitoring fee takes into account the type and scale of development and associated monitoring timescales, factoring in the number of obligations to be monitored and the number of payments expected for each category of financial obligation (e.g. phased payments on larger schemes). Details are set out in the Council’s Planning Obligations SPD. A fee will also be required to cover the legal costs of preparing the obligation.
- 13.5. If a developer wishes to reduce their contributions this will need to be done via Section 106A of the Town and Country Planning Act which deals with modification and discharge of planning obligations. If this route is not available or the Council deems under the legislation that the obligation should not be modified, then the developer will need to submit a new planning application.

14. Checklist for Development Management Process

- 14.1. Discussions with the Council and Registered Providers should occur early in the planning process, based on comprehensive information on proposals, to ensure affordable housing contributions reflect the scale and nature of the scheme proposed and fully address policy requirements. The Council encourages the involvement of Registered Providers with housing stock and a management presence in the borough, as set out at paragraph 4.6. The Affordable Housing Enabling Team will advise of suitable Registered Providers in each case, see also section 4. Please note these suggestions relate only to the negotiation of affordable housing, and do not reflect all the Council’s policy requirements which are set out in other policies and guidance.

Pre-Application

- 14.2. The Council encourages the early involvement of housing and planning policy officers, and input from Registered Providers, in site discussions, when there is still an opportunity to influence the design of a scheme and consider funding options to support a development.
- 14.3. The Council offers a formal process providing pre-application advice for potential applicants, for which a fee is payable. Detailed advice is provided to applicants and their agents on key issues, which can include affordable housing policy requirements. There are categories of development or advice liable for different fees, from large scale developments for the provision of 50 dwellings and above, to concept meetings.

- 14.4. A full breakdown of any affordable housing contribution (numbers, tenure split, unit size, location etc) should be provided to outline how policy requirements will be addressed and relevant standards addressed. Where on-site provision is required to be fully explored, an applicant/ agent should discuss a potential scheme with Registered Providers and provide evidence of any discussions, including how comments raised have been addressed and funding options explored, and be able to demonstrate that the proposal is in line with the Council's affordable housing priorities set out in section 2. This will expedite the planning process.
- 14.5. The applicant should submit details of the proposed viability methodology, inputs to be used and if appropriate a draft viability assessment. If the applicant requires a review of a draft financial viability appraisal, then the assessment cost of an independent consultant will need to be underwritten.
- 14.6. If at pre-application stage a site is providing non policy compliant levels of affordable housing, then the applicant should demonstrate that a variety of design and typologies have been looked at that may improve the viability of the development. If the proposed development is the optimal scheme, then evidence should be provided to support this assumption.

Application

- 14.7. An application must demonstrate how affordable housing contributions have been maximised, addressing policy requirements as set out in the Flowchart in section 4. As set out in the Council's Validation Checklist for local requirements, affordable housing is required to be addressed in all applications for new development or changes of use for wholly residential and mixed-use sites incorporating residential use. There is no set format. The absence of the relevant affordable housing and/or viability information with a submitted application may lead to an avoidable refusal.
- 14.8. On large schemes, the proposed breakdown of affordable housing must be clearly identifiable (either by a schedule and/or on plans). There should be evidence of discussions with Registered Providers, including how comments raised have been addressed, funding options explored, and how the proposal accords with the Council's affordable housing priorities.
- 14.9. If the proposal involves land that was formerly in employment use, full information must be provided to the Council showing that the retention of a site for employment use is not practicable and that proposals for alternative generating uses are also not appropriate following marketing. Evidence must also be provided to show that on-site provision has been explored.

- 14.10. An applicant/agent/developer must be prepared to submit a viability assessment as necessary and contribute to any cost of appraisal by independent assessor. If cost plans need to be assessed then an independent Quantity Surveyor will be required to appraise the scheme, whose costs will be covered by the applicant/developer. Annex B contains the viability information required, and the sources of that data.
- 14.11. For sites of fewer than 10 units a commuted sum for the off-site provision of affordable housing, should be calculated using the pro-forma attached at Annex A. (See Guidance Notes within Annex A and the Step-by-Step Guide to the Affordable Housing Commuted Sum Calculator at Annex D).
- 14.12. Once the maximum level of planning obligations has been agreed between the Council, heads of terms will be drafted to determine the content of the S106 legal agreement. The applicant will need to cover the Council’s legal costs and once the S106 legal agreement has been signed, planning permission will be granted.

Glossary

<p><i>Affordable Housing</i></p> <p>Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision. The NPPF sets out further the definition of affordable housing.</p>
<p><i>Alternative use value (AUV)</i></p> <p>PPG paragraph 017 defines this as ‘the value of land for uses other than its existing use’. The alternative use is limited to those uses that would fully comply with up-to-date development plan policies, including for example any policy requirements for contributions towards affordable housing at the relevant levels set out in the plan. Where it is assumed that an existing use will be refurbished or redeveloped, this will be considered as an AUV when establishing the benchmark land value (BLV).</p>
<p><i>Benchmark land value (BLV)</i></p> <p>The value to be established on the basis of the existing use value (EUV) plus a premium for the landowner (PPG, paragraph 013) or the alternative use value (AUV) in which the premium is already included. PPG paragraph 014 is clear that there ‘may be a divergence between benchmark land values and market evidence; and plan makers should be aware that this could be due to different assumptions and methodologies used by individual developers, site promoters and landowners.’</p>
<p><i>Community Infrastructure Levy (CIL)</i></p> <p>The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008, as a tool for local authorities to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. It allows local authorities to raise funds from owners or developers of land undertaking new building projects in their area.</p>
<p><i>Development/developer profit/return</i></p>

The amount by which, on completion, the estimated income of a development exceeds the total outlay. This can be expressed in various forms. For the purpose of plan making, the PPG states that an assumption of 15–20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of the planned development. A lower figure may be more appropriate for delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk.

Existing use value (EUV)

EUV is the value of land in its existing use, with no expectation of that use changing in the foreseeable future. PPG paragraph 015 advises specifically that the EUV excludes hope value from any assessment of the existing use value. *International Valuation Standards* 104 paragraph 150.1 defines current/existing use as ‘the current way an asset, liability, or group of assets and/or liabilities is used’.

Family housing

Family housing is generally defined as having three or more bedrooms, however if of a suitable size (meeting the Nationally Described Space Standard and the external amenity standards) a two bedroom property can be designed for 3 or 4 persons and would be considered as family housing.

Gross development value (GDV)

The aggregate market value of the proposed development, assessed on the special assumption that the development is complete on the date of valuation in the market conditions prevailing on that date. Where an income capitalisation approach is used to estimate the value of the completed development, the prospective purchaser’s costs are explicitly deducted to determine the market value, which in turn identifies the expected total contract value. In these circumstances, GDV should include a deduction for anticipated purchaser’s costs only. The seller’s costs are deducted to obtain the net development value.

Habitable Rooms

A habitable room is any room used or intended to be used for sleeping, cooking, living or eating purposes. Enclosed spaces such as bath or toilet facilities, corridors, hallways, utility rooms or similar should not be considered habitable rooms.

Hope value

An element of market value in excess of the existing use value (EUV), reflecting the prospect of some more valuable future use.

Inclusive design

Design that creates an environment where everyone can access and benefit from the full range of opportunities available to members of society. It aims to remove barriers that create undue effort, separation or special treatment, and enables everyone regardless of disability, age, or gender to participate equally, confidently and independently in mainstream activities with choice and dignity.

London Plan

The London Plan is the spatial development strategy for the Greater London area and the Mayor of London is responsible for producing this planning strategy. The London Plan deals with matters of strategic importance to the area and forms part of the Development Plan for the borough. The plan was first published by the Greater London Authority in 2004 and the most recent version was published in 2021.

Major development

For a full definition, see Part 1 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. Generally, major developments are:

- Development of dwellings where 10 or more dwellings are to be provided, or the site area is 0.5 hectares or more;
- Development of other uses, where the floor space is 1,000 square metres or more, or the site area is 1 hectare or more.

Mixed-Use Development

Development for a variety of activities on single sites or across wider areas such as within centres.

National Planning Policy Framework (NPPF)

The NPPF sets out the Government’s planning policies for England and how these are expected to be applied, alongside other national planning policies. It sets out the Government’s requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities. It was revised in 2021.

Planning Condition

A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990).

Planning Obligation

A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal. A Planning Obligation places a charge on the land to which it relates.

Planning Practice Guidance (PPG)

The national Planning Practice Guidance was published by Government as a web-based resource in March 2014 (and as amended), adds further context to the NPPF. Local planning authorities should have regard to advice contained in the PPG when developing their plans. The PPG is also a ‘material consideration’ when taking decisions on planning applications.

Premium

The premium should reflect the minimum return at which a reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to fully comply with plan policy requirements (PPG paragraphs 013 and 016).

Registered Providers

These are normally approved housing associations, who provide social housing for the Council, previously known as Registered Social Landlords. The Registered Providers share the Richmond Housing Register and must be approved by Homes England.

Statutory Development Plan

The statutory development plan is the plan for the future development of an area. It consists of:

- Local Plans: development plan documents adopted by local planning authorities, including any ‘saved’ policies from the Unitary Development Plan
- The London Plan: the spatial development strategy prepared by the Mayor of London
- Neighbourhood plans: where these have been supported by the local community at referendum and subsequently made by the local planning authority.

Supplementary Planning Document (SPD)

SPDs are produced by the Council to provide greater detail on policies, and once adopted are a material consideration in planning decisions unless withdrawn. The Mayor of London also provides further guidance on policies in the London Plan that cannot be addressed in sufficient detail in the plan itself, through Supplementary Planning Guidance.

Financial Viability Assessment

An assessment of the financial viability of a development to determine the maximum level of affordable housing and other policy requirements. Any viability assessment should follow the government’s recommended approach to assessing viability, as set out in PPG paragraph 010. It can often be called an FVA

Viability Review Mechanism

A review of development viability defined with a Section 106 agreement enabling the reassessment of development viability after permission has been granted, at an early, mid or late stage in the development process. These mechanisms address uncertainties in the application stage assessment of viability to enable the maximum level of affordable housing provision over the lifetime of a proposal.

Further Contacts

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Planning Policy

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