

# APPENDIX A: DRAFT Affordable Housing and Specialist Housing Supplementary Planning Document 2021



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## Section 1: Introduction

### Background:

- 1.1. One of the Council's top corporate priorities is "More and better housing" which is genuinely affordable and improves choices for people in housing need<sup>1</sup>.
- 1.2. One of the main aims of the Harlow Local Development Plan (HLDP) is to ensure that there is a sufficient supply of sustainable, high quality homes across a range of tenures and types in the district to fully meet the evidence set out in Harlow's Objectively Assessed Housing Need (OAHN).
- 1.3. One of the four priorities in the draft Harlow Housing Strategy 2021 to 2025 is to "maximise the supply and diversity of affordable housing options to ensure the right type of housing is available in the right places", with a focus on "diversifying the range of housing options to provide greater affordable choice for local people", and maximising the amount of Council homes that can be provided.
- 1.4. The Examination in Public of the Pre-Submission Publication version of the HLDP began in March 2019.
- 1.5. Between April and May 2020, the Council undertook a consultation on Main Modifications and also published Additional (Minor) Modifications. The Main Modifications were produced by the Inspector, in conjunction with the Council, to ensure the soundness of the Plan.
- 1.6. The Inspector's modifications were subject to consultation for six weeks, and subsequently extended to take into account potential difficulties for respondents caused by the Covid-19 pandemic.
- 1.7. The Inspector's report was published on 5 November 2020 and is available on the Council's web site. [EX0090 - Inspector's report on the examination.pdf \(harlow.gov.uk\)](https://www.harlow.gov.uk/sites/default/files/documents/EX0090_-_Inspector's_report_on_the_examination.pdf). The Inspector concluded with regards to affordable and specialist housing that, subject to modifications the HLDP was "sound", and could proceed to formal adoption, which was duly carried out the full Council meeting on December 10 2020.
- 1.8. The Affordable and Specialist Housing Supplementary Planning Document (SPD) sets out the Council's approach to securing planning obligations in respect to both affordable housing and specialist housing (including older people's housing and self / custom build housing) within new developments across the District. It seeks to amplify and aid the effective and consistent implementation of the housing policies in the Harlow Local Plan 2020 and assist the Council in achieving the strategic housing objectives set out in the draft Harlow Housing Strategy 2021 to 2025.

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<https://www.harlow.gov.uk/sites/default/files/documents/Harlow%20Council%20Corporate%20Plan%202020%20to%202021.pdf>

- 1.9. Its purpose is to provide all parties with further guidance on what affordable housing the Council expects within new developments and how and when it should be provided. It also seeks to assist developers in understanding the Council's approach and requirements with regard to viability.
- 1.10. It also includes recognition of changes made to the National Planning Policy Framework (NPPF) in February 2019, as well as changes to the Planning Practice Guidance (PPG) with regards to viability.
- 1.11. The SPD supports the Local Plan policies contained in Chapter 14: Housing, and in particular those relating to affordable housing and specialist housing such as housing for older people and people with disabilities, as well as self / custom build housing and community led housing. Specialist housing and self / custom build housing are not necessarily classed as affordable housing, although in some circumstances maybe.
- 1.12. Extracts of the relevant policies in the District Plan will be provided in Appendix A of this document, and the District Plan in its entirety can be found here:  
<https://www.harlow.gov.uk/sites/default/files/documents/Harlow%20Local%20Development%20Plan.pdf>

## Legislative and Policy Context:

- 1.13. This SPD is a material consideration in the determination of planning applications and will also inform pre-application discussions on relevant developments. The SPD is unable to introduce new policy. This document has been prepared in accordance with Regulations 8 & 11 to 16 of the Town and Country Planning (Local Planning) (England) regulations 2012.
- 1.14. This SPD will replace the Affordable Housing Supplementary Planning Document that was adopted in March 2007.

## Structure of document

- 1.15. **Section 2** outlines the various requirements of developers in relation to affordable housing as set out in the Local Plan. It sets out the expectations of what should be covered in discussions at pre-application or the submission of a full planning application stages, and highlights the Council's process for securing the provision of affordable homes through S106 agreements. It also notes the Council's approach to viability which largely follows the updated PPG.
- 1.16. **Section 3** sets out the various requirements and expectations of developers in relation to specialist housing such as housing for older people and people with disabilities.
- 1.17. **Section 4** outlines the requirements of developers in relation to self-build / custom-build and Community Led Developments.

## Section 2: Affordable Housing

### What is affordable Housing

2.1. The Development Plan definition of affordable housing is:

*Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and complies with one or more of the following definitions<sup>2</sup>*

- a) **Affordable housing for rent:** *meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*
- b) **Starter homes:** *is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*
- c) **Discounted market sales housing:** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*
- d) **Other affordable routes to home ownership:** *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.*

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)



- 2.2. The above presents the latest definition as at the time the SPD has been published. Should there be any subsequent update to the definition(s) set out in the regulations, policy or guidance then it shall supersede what is set out above and will be set out as an addendum to this document on the Council's web site.

## **Affordability**

- 2.3. The affordability of the affordable housing is a primary issue and should be borne in mind in setting rents and sales prices.
- 2.4. The NPPF states that “affordable housing is housing for sale or rent, for those whose needs are not met by the market....”
- 2.5. The Council is keen to ensure that new affordable housing provided in the District is affordable to the greatest number of households on the Council's Housing Need's Register and the Homebuy Agents list. Developers will need to demonstrate that what is being proposed is available at a cost that occupiers on average local incomes can afford.
- 2.6. The Council's preference is for Affordable Rent units to be let on a Social Rent as this would ensure maximum affordability for local residents. Affordable Rents, including service charges, should be set no higher than current Local Housing Allowance (LHA) rates in the District and shall be secured as part of Planning Obligations.
- 2.7. Where developers are uncertain as to the affordability or otherwise of their proposed intermediate products, they are encouraged to contact the Council to discuss this as early as possible in the process of the scheme development.

## **How is affordable housing provided?**

- 2.8. The planning system is central to creating new affordable housing development opportunities across the UK and currently delivers the majority of new affordable housing built in Harlow. Provision achieved through requiring developers to include affordable housing within their open market housing development as a part of planning permission. This is secured through planning obligations<sup>3</sup> that are legally enforceable on the land owner.
- 2.9. The level of affordable housing required on development sites is set out in the Local Plan 2020 and the NPPF (details on this are explained in Section 2). This also includes the type, size and tenure of affordable housing that is expected to be delivered as part of an open market development. Affordable housing can be provided as an element of self-build or custom built housing.

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<sup>3</sup> Section 106 of the Town and Country Planning Act 1990 (as amended)

- 2.10. In some exceptional circumstances there are other routes and mechanisms to enable the delivery of affordable housing, such as through off-site provision.

## The Affordable Housing Requirement

- 2.11. The specific requirement for affordable housing will be calculated in accordance with the Local Plan Policy H8 as well as any other material considerations, including the 2017 update to the Strategic Housing Market Assessment (SHMA) and any successor evidence including that prepared by Harlow and Gilston Garden Town partnership.
- 2.12. Local Plan Policy H8 requires that:
- “In residential developments of more than 10 dwellings it will be expected that at least 30% affordable housing is provided”* (See full policy in Appendix 1).
- 2.13. Where dwelling numbers are uncertain at the time the application is determined this provision requirement will be applied to all sites with an area of *0.5 hectares or more*.
- 2.14. The Local Plan sets out that affordable housing will be sought on all sites that propose residential development. The PPG has been updated to note that with reference to the application of the use class system to specialist housing it is for a local planning authority to consider into which use class a particular development may fall.
- 2.15. There will be cases where the percentage of affordable housing sought for on a site does not give rise to an exact number of dwellings (e.g. 30% of 51 dwellings would be an affordable requirement of 15.3). In these cases the approach will be to round up or round down the number to give the final affordable housing figure. Any calculation that results in a requirement of 0.5 or above will be rounded up to the next whole unit, anything below 0.5 will be rounded down to the next whole unit.
- 2.16. The phasing of a development or a division of a site into separate parts will not result in reducing the proportion of affordable housing to be delivered. Where a site can clearly be identified, irrespective of ownership, the entire site will be used to determine whether the site meets the size criteria for affordable housing provision.
- 2.17. Planning Obligations must ensure that the affordable housing provided is secured as affordable for first and subsequent occupiers of those homes. Accordingly, where discounted market sale or shared ownership properties are provided there must be provision for recycling subsidy within Harlow should the scheme provide for the property to become market housing when resold.
- 2.18. Inclusion of affordable housing on a development should also include provisions for:

- a) Housing to either remain at an affordable price for future eligible households and/or
- b) Any recycled grants to be spent on the provision of affordable housing within Harlow District.

## Application Advice

- 2.19. Applicants are advised to seek pre-application planning advice to discuss all aspects of the planning proposal including the affordable housing requirement of the proposed scheme:

<https://www.harlow.gov.uk/planning-and-building-control/planning-permission/request-planning-advice>

- 2.20. The purpose of pre-application planning advice in relation to affordable housing is to establish how affordable homes will be delivered, and to help provide all parties with greater certainty as the proposals move forward. The phasing of a development or a division of a site into separate parts will not result in reducing the proportion of affordable housing to be delivered. Where a site can clearly be identified, irrespective of ownership, the entire site will be used to determine whether the site meets the size criteria for affordable housing provision in conjunction with appropriate specialist strategic housing officers as required.
- 2.21. Essex County Council has adopted its own Housing Strategy in recognition of the wide array of areas that our services and functions interact with housing. Applicants can get additional advice and guidance from Essex County Council – Place and Public Health.
- 2.22. An **Affordable and Specialist Housing Statement** should be included in pre-application and the planning application stage submission documents to facilitate pre-application consideration and discussion. The Affordable Housing Statement should include the following:
- The total number of units proposed;
  - The intended mix of market and affordable housing proposed;
  - For the affordable element the quantum, tenure, type and size (including the number of persons per unit);
  - Plan(s) showing the location of affordable land/units in relation to the proposed market housing;
  - The proportion of affordable housing to meet M4(3): Category 3 Wheelchair User Dwelling standards and the units specifically identified, as set out in the Local Plan in Policy H5 and supporting text.
  - Details of the proposed arrangements of tenure for the affordable units including the proposed arrangements for ensuring affordability in the long term (where more than one type of tenure is proposed, details of types should be provided);
  - If different levels or types of affordability or tenure are proposed for different units this should be clearly and fully explained;
  - Details of any Registered Provider acting as a partner in the development;

- Notification that the development may not be able to fulfil the Council's affordable housing requirement.
- 2.23. Pre-application discussions in relation to affordable housing will seek to address the following:
- consider the quantum, type, size and tenure of affordable housing to be provided;
  - consider the location;
  - identify / involve the (potential) Registered Provider(s) and consider the arrangements for the provision of affordable housing prior to the submission of a planning application; and
  - consider the Heads of Terms of the Planning Obligations that will be required to ensure the delivery of the affordable housing. A full draft of the proposed Planning Obligation or Detailed Heads of Terms should be prepared and submitted with the application. The Planning Obligations must be available in the form of a completed legal agreement or Unilateral Undertaking before planning permission is issued.

## Housing Mix, Type and Tenure

- 2.24. All developments that provide Affordable Housing will be expected to do so in line with Policy H8 of the Local Plan and take into account the Council's most up-to-date evidence of housing needs in accordance with that Policy, which includes the latest SHMA, and housing needs research published by Harlow Council and/or Harlow and Gilston Garden Town. The tenure mix will be negotiated by the Council on a site by site basis and the type and size of affordable units sought will accord with the most up to date evidence on housing need.
- 2.25. The SHMA is an objective analysis of the housing circumstances in the District. It provides an evidence base to support the Council's affordable housing requirement, however, the Council shall at all times seek to use the most up-to-date information available. The SHMA is available at:  
<https://www.harlow.gov.uk/sites/default/files/documents/HEBH3%20-%20Strategic%20Housing%20Market%20Assessment%20Affordable%20Housing%20Update%20July%202017.pdf>
- 2.26. The most recent SHMA is dated July 2017. It identifies a requirement that 84% of new affordable housing provision should be for affordable rent with the remaining 16% being for intermediate affordable housing tenures as summarised in the table below and in the Local Plan.

**Table 1: Harlow's affordable housing need as identified by July 2017 Affordable Housing Update**

| Affordable Rent         |             |                               | Intermediate Affordable Housing |             |   |
|-------------------------|-------------|-------------------------------|---------------------------------|-------------|---|
|                         |             | Percentage of Affordable Rent |                                 |             | Percentage of Intermediate Affordable Housing |
| Flat                    | 1 Bedroom   | 8.9 %                         | Flat                            | 1 Bedroom   | 6.0 %   |
|                         | 2+ Bedrooms | 17.0 %                        |                                 | 2+ Bedrooms | 18.0 %  |
| House                   | 2 Bedrooms  | 29.6 %                        | House                           | 2 Bedrooms  | 32.0 %  |
|                         | 3 Bedrooms  | 36.3 %                        |                                 | 3 Bedrooms  | 36.0 %  |
|                         | 4+ Bedrooms | 6.3 %                         |                                 | 4+ Bedrooms | 6.0 %   |
| % of affordable housing |             | 84%                           | % of affordable housing         |             | 16%   |

Note: Figures may not sum due to rounding

- 2.27. Where major developments are providing housing, government guidance requires at least 10% of the total dwellings are to be made available for affordable home ownership. Taken across the whole development site as required, the proportion would be greater than the need identified in Table 1.
- 2.28. Whilst provision for home ownership at a discounted price as a significant part of the affordable housing tenure mix may be favoured by applicants, this provision will not address the affordability position in Harlow. Need is clearly for affordable rent (84%) and intermediate affordable (16%). Provision of discounted home ownership housing as part of the affordable tenures would mean that insufficient affordable rent homes would be provided.

### **The Council's preferred intermediate products**

- 2.29. The Council's preferred method of providing affordable rented housing remains that which is provided by Registered Providers under affordable rent schemes. Affordable Rent schemes provided by Registered Providers provide long term assured tenancies and the administration and management arrangements are transparent and subject to national government regulations which set minimum standards. However, private sector providers under NPPF are able to deliver affordable private rented homes.
- 2.30. The Council's preferred intermediate tenure is shared ownership (managed by registered providers) because it allows people who are not normally able to buy a property outright, to buy a percentage share depending on what they can afford, and pay rent to a registered provider for the remainder. Clear eligibility criteria apply to shared ownership applicants and a financial assessment undertaken in all circumstances by the Help to Buy Agent.

- 2.31. Where applicants wish to propose an alternative intermediate housing product they should submit evidence demonstrating why a particular product is more appropriate. We will consider this against the definitions set out in the latest NPPF, ensure that it will be genuinely affordable for local residents and consider how the proposed product meets identified needs now and in the future.

## **The Council's expectations for different affordable products**

- 2.32. The Council has certain expectations for different affordable housing products as outlined below:

### **Affordable Housing for Rent**

- 2.33. **Affordable rents:** Our preference is for social rent wherever possible in order to be genuinely affordable for local residents. Affordable rent is acceptable only if the scheme does not work on a social rent basis. The Council is seeking as low as possible the affordable rent levels. At very minimum the Council will require that rents, including service charges, are below or capped at the Local Housing Allowance rate (LHA) or its equivalent.
- 2.34. LHA is a flat rate allowance based on the size of the household and the area your property is located in. Providers will need to ensure that affordable rents do not exceed the LHA rate. The current level of LHA for Harlow is available on the Harlow Council website: <https://www.harlow.gov.uk/benefits/housing-benefit/local-housing-allowance>
- 2.35. **Nomination Agreements:** Providers of affordable housing are expected to enter into a Nominations Agreement with the Council. A Nomination Agreement should be entered into prior to occupation of the affordable rented dwellings and will be a requirement of the S106.
- 2.36. The Council will normally seek 100% nomination rights for the initial lets of affordable rented housing and a minimum of 75% nomination rights for relets. This should be a specific planning obligation on the landowner so as to ensure that the nomination agreement requirement is transferred to the landowners chosen provider.
- 2.37. **Affordable homes in perpetuity:** The benefits of affordable housing developed in the District should remain in place for future generations. The Council will seek that affordable rented housing should not exceed the published LHA rates for the relevant property in perpetuity.

### **Shared Ownership**

- 2.38. The Council's preferred intermediate tenure product is shared ownership.
- 2.39. For Shared Ownership housing the initial share sold must be between 25% and 75% of the total value. After purchasing the initial share owners have the option to staircase up to 100% ownership.

- 2.40. The Government's appointed Help to Buy Agent is responsible for managing Shared Ownership applications on the Council's behalf. Applicants must be financially eligible through the Government's criteria and regulations.
- 2.41. Shared Ownership properties must be made available only to eligible applicants.
- 2.42. Shared Ownership affordable housing should be available in perpetuity to those in housing need, unless the owner has staircased to 100% ownership in the property.

**Private intermediate rented homes such as Build to Rent Schemes**

- 2.43. Intermediate rented homes can be provided by the private sector, and should be made available in a form which is equivalent to affordable rented homes in terms of affordability. The monthly rent should be capped at 80% of market rents or the Local Housing Allowance (LHA), whichever is the lowest in perpetuity.
- 2.44. The Council will need to be satisfied that, provisions are in place to ensure that the affordable housing will remain at an affordable price for future eligible households.
- 2.45. Build to Rent is purpose built housing that is typically 100% rented out. Schemes will usually offer tenancy agreements of 3 years or more, and will typically be professionally managed stock in single ownership and management control.
- 2.46. Where applicants wish to propose an alternative intermediate housing product they should submit evidence demonstrating why a particular product is more appropriate. The Council will consider this on the basis that it will be genuinely affordable for local residents and consider how the proposed product meets identified needs now and in the future.
- 2.47. The Council will require the following matters to be secured in planning obligations:
- Management by a bona fide housing provider or management agent from the public or private sector
  - Restrictions to ensure that the properties meet the needs of eligible households and remain affordable in the future
  - Rents, inclusive of service charges must not exceed 80% of market rents or the LHA, whichever is the lowest, for the relevant property type
  - The right to make nominations in respect for future occupants
  - Homes are let in the form of assured tenancy with the tenancy terms submitted for the Council for approval

**Discounted Market Sales Housing**

- 2.46. Discounted Market Sales Housing is a route to affordable home ownership where the property is discounted by at least 20% below local market levels.

It is essential to ensure that homes are genuinely affordable to local people, based on local incomes and house prices.

- 2.47. The discount percentage will be set following a comprehensive assessment of local sales values, in combination with the average “purchasing power” of a typical household based on an assessment of local incomes. As affordable housing aim to provide housing for those whose needs are not met by the market (including housing that provides subsidised routes to home ownership) then the selling price of discount market sale housing is expected not to exceed lower quartile house prices.
- 2.48. Discount percentage from open market sales rather than fixed prices will be set in Planning Obligations.
- 2.49. The fixed discount must remain on future re-sales in perpetuity.
- 2.50. Harlow has a real housing affordability issue. Applicants should refer to the Housing Strategy and published housing data such as NOMIS<sup>4</sup> on Harlow resident’s average income, average house price data to establish latest affordability (income to house price ratio) and the level of discounts that should be applied to enable residents to be able to afford these homes.

## First Homes

- 2.51. First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of ‘affordable housing’ for planning purposes. Specifically, First Homes are discounted market sale units which:
- a) must be discounted by a minimum of 30% against the market value;
  - b) are sold to a person or persons meeting the First Homes eligibility criteria (see below);
  - c) on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,
  - d) after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).
- 2.52. First Homes are the government’s preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations.
- 2.53. The Council intends to publish an addendum to this SPD to give additional guidance to the Council’s requirements for First Homes based on evidence reflecting Harlow’s needs where this can be applied.

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<sup>4</sup> National Online Manpower Information System (Office for National Statistics; UK)  
<https://www.nomisweb.co.uk/>



## **Monitoring the affordability of homes in perpetuity**

- 2.53. The benefits of affordable housing developed in the District should remain in place for future generations.
- 2.54. The Council believes the affordable rented homes should be provided in line with the definition of “affordable housing for rent” see page 5.
- 2.55. With regard to affordable homes of all tenures, where it is proposed that the completed units are not transferred to a Registered Provider the Council will need to be satisfied that, provisions are in place that:
- The affordable housing will remain at an affordable price for future eligible households or;
  - The value of the subsidy or discounted price is recycled for alternative affordable housing provision. These provisions will usually take the form of restrictive covenants within Planning Obligations.
- 2.56. If it is proposed that a Registered Provider is not to be involved in the management of affordable housing, the Council will usually secure the provision of affordable housing for successive occupants through the use of planning obligations, restricting occupancy to households who cannot compete in the housing market.

## **Design and Layout**

- 2.57. As with all forms of residential accommodation, the Council expects affordable housing to be built to a high standard of design and amenity and in accordance with the Adopted Harlow Local Development Plan 2020. Affordable housing provided within developments should be integrated with the market housing and the design and appearance should be indistinguishable from those market units and built using the same materials, form and quality to ensure that it makes a positive contribution to local character and distinctiveness. This also applies to provision of parking entrances to flats and shared amenity spaces which should be no different to that of market dwellings.
- 2.58. Plans submitted to the Council for planning consideration should clearly show the position of all affordable units within the development. For outline applications illustrative plans should be submitted showing the site layout with the location of land parcels that will be set aside for affordable housing and should be provided or required as a pre-commencement condition. This will establish a default position secured in a Planning Obligation that allows for variation by agreement with the Local Planning Authority, to create some flexibility as layout detail emerges where only illustrative plans are submitted.
- 2.59. To achieve mixed, inclusive and sustainable communities and to supplement the supporting text in paragraphs 14.41 onwards of the Local Plan, affordable housing should:
- On all sites be distributed across the site rather than provided in one single parcel;

- On sites incorporating 30 or more residential units be provided in groups of no more than 15% of the total number of units being provided or 25 affordable units, whichever is the lesser. Reference should also be made to the Harlow Design Guide and its successors.

<https://www.harlow.gov.uk/sites/default/files/documents/HEB3%20-%20Harlow%20Design%20Guide%20Supplementary%20Planning%20Document.pdf>

- 2.60. Policy H5 (See also section 3 and Appendix A) states to meet the needs of current and future households all new dwellings shall meet the Building Regulation M4(2): Category 2 accessible and adaptable dwellings.
- 2.61. On sites proposing 11 or more gross additional dwellings, a proportion of affordable dwellings will be expected to meet the Building regulations Requirement M4(3): Category 3 – Wheelchair User Dwellings. Such dwellings may be wheelchair adaptable or wheelchair accessible. The Council will therefore negotiate the proportion of wheelchair adaptable / accessible dwellings on a site-by-site basis.
- 2.62. The most recent assessment of need for wheelchair user dwellings will inform negotiations. The SHMA identifies a need for 15% of affordable housing to meet wheelchair user requirements alongside the 10% of market housing.
- 2.63. The Council's preference is for wheelchair user dwellings to be adaptable, for example to provide a wet room or lift where appropriate.
- 2.64. To ensure that the design, layout and size of affordable housing provides a dwelling that suits the need of the household its providing for and delivers the greatest opportunity for longevity within the unit; developers should make assumptions for the number of people a unit can accommodate and agree them with the LPA/LHA, as a basis for decisions on tenure/type mix.
- 2.65. Consideration should also be given in dwellings with more than one double bedroom, that the second and subsequent double bedrooms are suitable for two single beds. This should be demonstrated in the floorplans submitted as part of an application.
- 2.66. Along with the Harlow Design Guide applicants may wish to research other guidance, for example the Royal Town Planning Institutes "Dementia and Town Planning"

## How is Affordable Housing Funded?

- 2.67. The most common methods of affordable housing delivery are detailed below:
- Developer contributions through planning obligations on new housing developments or conversions (controlled through Planning Obligations)
  - Grants – usually through Homes England. These grants are usually made to Housing Associations, or those Councils that have retained their housing stock, although private developers can also register with Homes England. Historically, the majority of these affordable

housing grants have been for social or affordable rented accommodation; however, the Government are now also keen to promote other affordable housing tenure products

- Recycling capital receipts from property sales – relating to Housing Association properties
- Cross-subsidy from commercial arms of Housing Associations/ open market housing

- 2.68. Affordable housing provided as part of Planning Obligations arising from market-led developments is unlikely to receive grant funding. It should therefore be assumed that affordable units required by the Local Plan will be delivered without grant funding. The provision of affordable housing would be entirely funded through a private land ownership cross subsidy. In these circumstances the requirement is that land for affordable housing is provided at nil value. Where viability of provision is challenged in any way a nil value assumption must be applied.
- 2.69. If grant funding for affordable housing is available at the time of application and/or delivery from Homes England, the Council or another funding body, the criteria should be requested from the funding body by the applicant and the applicant must be able to demonstrate to the Council that the viability assessment is based on reasonable and realistic assumptions about subsidy, whereby the grant supports build costs only; not land costs and clearly is taken into account in securing the tenure mix and rent levels in the Planning Obligations.

### **Provision of affordable housing on alternative sites / commuted sums**

- 2.70. It is a requirement of the Local Plan Housing Policy H8 that the provision of affordable housing will be made on site.
- 2.71. Only in exceptional circumstances and by mutual agreement between the developer and the Council will a financial or other contribution for affordable housing on another site acceptable to the local planning authority.
- 2.72. It is strongly recommended that pre-application advice is sought if an applicant considers that an off-site contribution is appropriate. Applicants proposing off-site provision should provide written justification, setting out why affordable housing cannot be provided on site and off site provision / a commuted sum is necessary, as part of a planning application.
- 2.73. In rare exceptional circumstances, the Council may permit a proportion or the entire affordable housing to be delivered on an alternative site within the District or seek the provision of land in lieu of part or all of the affordable housing contribution.

- 2.74. If the proposal for alternative land is acceptable by the Council, land should be serviced to its boundaries and be of a size that is of equivalent value to on-site provision and in agreed location close to the original site.
- 2.75. Commuted sums will only be considered where the Council is satisfied that there is robust justification for not providing housing on-site or on an alternative site.
- 2.76. Where a commuted sum or similar contribution is sought as an alternative to on-site provision of affordable housing, the Council may require this contribution to be greater than the cost of providing affordable housing elsewhere. The money will be used to provide affordable housing on an alternative site. It is therefore appropriate that the level of payment in lieu should relate to how much it will cost an affordable housing provider to provide the equivalent housing on the open market.
- 2.77. The calculation of any commuted sums will be based on local market costs (all costs including acquisition of land) of replacing the number and mix (size and type) of affordable units had they been provided on site reflecting the latest housing needs findings.
- 2.78. The Council will seek to secure financial contributions broadly equivalent to the cost of providing the affordable housing off-site via an agreed methodology.
- 2.79. Commuted sums will be subject to indexation for the residential development.
- 2.80. The applicant should notify the Council when the development commences or the trigger for payment / delivery has been reached. On receipt of the notification the Council will issue an invoice for the amount payable including any indexation. Indexation will be specified in a section 106 agreement based on an appropriate method at the time.
- 2.81. The Council will monitor Building Control and other sources and will issue an invoice if the Applicant fails to advise the Council that the payment has been triggered.
- 2.82. Indexation applies until the date of the invoice, so in these circumstances the amount may be higher than if the applicant had advised the Council when the payment was triggered. Penalty interest is payable to all unpaid contributions and accrues from when the payment is triggered to the date of actual payment.

### **Vacant Building Credit**

- 2.83. The NPPF provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floor space or relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

Affordable housing contributions may be required for any increase in floor space.

- 2.84. To qualify for Vacant Building Credit a site must be a brownfield development and contain an existing building at the time the application is made and it is proposed to:
- Demolish the building for redevelopment; or
  - Bring the building back into use
- 2.85. Vacant Building Credit will apply where the building is wholly vacant and to be redeveloped completely and may result in a proportionate reduction in the Affordable housing contribution. Vacant building Credit does not apply where the building:
- Has been abandoned in planning terms; or
  - Has been vacated for the sole purpose of redevelopment; or
  - Is covered by an extant or recently expired planning permission
- 2.86. The proportion of the vacant building floor space as part of the total new floor space should be used to calculate the proportion of the affordable housing required by the policy.

## **Securing Affordable Housing Provision**

### **Planning Obligations**

- 2.87. The Council will secure affordable housing requirements through entering into a legal agreement with the developer or landowner, or receive a Unilateral Undertaking under Section 106 of the Town and Country Planning Act (1990) (as amended) and in some cases, dependent on the scale or nature of development, via conditions.
- 2.88. The affordable housing clauses in the S106 agreement will include obligations relating to:
- The size, type, tenure, location and layout of the affordable housing;
  - The number of affordable dwellings to be delivered;
  - Limitations on the occupation of the affordable housing;
  - Nomination rights;
  - The phasing of the delivery of affordable housing in relation to market housing;
  - Triggers relating to any review mechanism or commencement schedule;
  - Default obligations should the provision not be made (this will be based on transfer of land restricted to use for affordable housing at nil value to provider or the Council);
  - Indexation;
  - The retention of the housing as affordable;
  - Obligations relating to the affordable dwellings for the first and subsequent residents;
  - Requirements to replace the affordable dwellings and for subsidy recycling;

- Monitoring provisions;
  - Review (clawback) provisions, where relevant
  - First Homes including;
    - The use and sale of the property,
    - securing the delivery of the First Homes
    - Legal restriction is registered onto a First Home's title on its first sale
    - Application of eligibility criteria
- 2.89. The Planning Obligations will contain a clause(s) that trigger the delivery of the affordable housing / payment in lieu. This will usually be the commencement of development and will be set out in the obligations.
- 2.90. Planning Obligations will also be used to secure matters pertaining to affordable housing agreements in the cases of off –site provision and commuted sums in lieu of affordable housing.

### **Monitoring Affordable Housing Delivery**

- 2.91. Developers will be expected to provide the Council with up-to-date accommodation schedules that indicate the plot numbers and addresses of all affordable housing units on development schemes, the tenure, confirmation of the Registered Providers or Management Company responsible for the units and expected date of completion.
- 2.92. Developers will be expected to provide the Council with a comprehensive breakdown of the development site's housing completions on a six monthly basis throughout the build out of the site.
- 2.93. Developers and any successors responsible for the development will be expected to inform the Council of any changes to the accommodation schedules in a timely manner.
- 2.94. The Council will use the affordable housing statement as submitted as part of the planning application to help monitor the delivery of the affordable housing provided.

### **Viability**

- 2.95. The percentage of affordable housing that the Council will expect to secure from development schemes has been informed by development viability assessments which demonstrate that the policy requirements are viable for most locations across the District. See:  
<https://www.harlow.gov.uk/sites/default/files/documents/HEBI2%20-%20Local%20Plan%20Viability%20Assessment%2C%20Affordable%20Housing%20and%20CIL%20Review%20March%202018.pdf><sup>5</sup>

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<sup>5</sup> Produced in accordance with the 2012 NPPF

- 2.96. The Council recognises that in some cases there may be abnormal development costs which need to be considered. Negotiations to reduce obligations based on site specific viability considerations should only be necessary where the site circumstances suggest exceptional or abnormal costs that will make policy compliance unviable.
- 2.97. If seeking to justify an affordable housing provision below the Council's requirements, a full financial appraisal should be submitted to enable the Council to undertake a review of the scheme's viability, and details of reappraisal of the scheme at future phases or a change in economic circumstances to fulfil the affordable housing requirement.
- 2.98. Where there is a proven need for affordable housing, but a developer is not able to provide the scale of provision or contribution expected by policy, the onus will be on the developer to demonstrate why a site should not include provision in line with the Council's targets.
- 2.99. Where necessary, a viability statement should be provided and discussed at the pre-application stage.
- 2.100. Policy IN6 Planning Obligations requires that where developers have justified the submission of a viability assessment, the Council will require an independent review of the viability of the scheme to be prepared, the costs of which shall be met by the developer. Where it is accepted that planning contributions are reduced below the requirements set out in policies of the Local Plan, a viability review mechanism will be required to enable a fully policy compliant level of contributions to be achieved over the lifetime of the project. Other than in exceptional circumstances, viability assessments will be made publicly available.

### **What is the Council's approach to viability?**

- 2.101. Harlow Council's Local Plan provides up-to-date policies on the contributions expected from development. Therefore, proposals that comply with Local Plan will be assumed to be viable.
- 2.102. Should the applicant successfully demonstrate that an exceptional circumstance does justify the need for a viability assessment, then such a viability assessment must be submitted taking full account of the affordable housing assumptions detailed in this document. This includes submitting assessments compliant with all best practice, the standardised inputs and be prepared on the basis that it will be made publically available.
- 2.103. Where appropriate the Council will have regard to the Essex Local Viability Protocol when assessing planning applications for housing development where there is an element of affordable housing required by the plan, and the developer wishes reduce the quantum of affordable housing below that requirement. A copy of the protocol can be found on this web site.  
[EPOA Viability Protocol June 2018.pdf \(uttlesford.gov.uk\).](#)

- 2.104. If there is a proven viability issue wherein the policy requirement for affordable housing cannot be fulfilled, the council will seek mechanisms to secure the affordable housing should they have concluded the economic circumstances have improved to comply with policy. This clawback can include (but not be limited to) re-phasing, reducing the time limit for development commencement, deferment of affordable housing obligations, or options to reappraise the scheme at future phases or at commencement to allow viability to be re-assessed. This approach is supported by Policy IN6 Planning Obligations. (See Policy in Appendix A).

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## Section 3 - Specialist Housing

### Introduction to Specialist Housing

- 3.1. This SPD provides guidance on Specialist Housing that is designed to meet particular groups of peoples' needs. Section 3 outlines guidance for specialist housing that meets the needs of older people and people with disabilities, whereas Section 4 outlines the guidance for self / custom build housing and community led housing which meets the needs of those who are looking to build or design their own home.
- 3.2. For information, a recent High Court Judgement<sup>6</sup> determined that accommodation in the form of dwellings can exist in both Use Class C2 (housing with care) and C3 (a dwelling house). The consequence is that as policy H8 does not specify the use class it applies to means the Council can apply the policy on development that is ostensibly a residential care scheme.

### Introduction to Specialist housing for older people and people with disabilities

- 3.3. Objective 12 of the Local Plan is to "Provide opportunities to improve the overall health and wellbeing of Harlow's residents". To support this objective, the Council welcomes proposals for accommodation which meet the needs of older people and people with disabilities or special needs.
- 3.4. Specialist Residential Accommodation can cater to the specific needs of a variety of people within the community including older people, people with disabilities and people with support needs.
- 3.5. The specialist residential accommodation required by these groups varies from independent self-contained accommodation with limited support, such as sheltered housing, to residential care homes that provide non self-contained residential accommodation for people who need regular care and support. Applicants can get additional advice and guidance on from Essex County Council's Adult Social Care team on independent living, can include adults with learning disabilities, autism (and other mental health conditions), and/or physical or sensory impairments for example.
- 3.6. Housing for older people can be split into the following categories:
- **Age restricted / age exclusive independent accommodation** – usually restricted to people above 55 years of age with no additional facilities or services.
  - **Specialist Housing for older people:**
    - Retirement housing – housing for older people with some additional facilities.

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<sup>6</sup> Rectory Homes Ltd v Secretary of State for Housing Communities And Local Government [2020] EWHC 2098 (Admin) (31 July 2020)

- Supported housing – housing for older people with a greater range of facilities and with support and care available.
  - Retirement villages – larger scale clusters of accommodation with a central hub providing a large range of facilities – i.e. Extra Care Housing.
  - **Residential and nursing homes** – these are not considered specialist housing but provide care and/or nursing.
- 3.7. Housing requirements for disabled people can sometimes share the same characteristics as housing for older people and in some cases can be provided for together, for example, in Extra Care Housing schemes. The models of housing referred to in this document include:
- Purpose built for complex needs
  - Supported living
  - Extra Care Housing units for learning disabilities
- 3.8. Affordable housing provision can include both housing for general needs and supported housing for specific needs or age groups provided that it falls within the appropriate use class. Where justified by need, the Council may seek an element of affordable housing provision in the form of supported housing where dwellings are provided together with additional communal space and facilities or homes provided to adapt to changing needs of the occupants over their lifetime or full wheelchair standards.
- 3.9. The Council expects specialist housing provision to be delivered at rates that are affordable for local residents. The Council reserves the right to seek on-site affordable housing provision in the first instance. The Local Plan Policy requirements will be the starting point for any negotiations.

### National policy on specialist housing

- 3.10. Paragraph 59 Section 5 of the NNPf expects that the “needs of groups with specialists housing requirements are addressed”.
- 3.11. In June 2019 the PPG<sup>7</sup> was updated in relation to specialist housing. The PPG states that policy making authorities will need to consider the size, location and quality of dwellings with the ultimate aim of allowing people to live in their own homes for as long as possible.
- 3.12. The PPG splits housing for older people into the following categories:
- **Age-restricted general market housing:** This type of housing is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens, but does not include support or care services.
  - **Retirement living or sheltered housing:** This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to

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<sup>7</sup> <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>

live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.

- **Extra care housing or housing-with-care:** This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24 hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses.
- **Residential care homes and nursing homes:** These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually include support services for independent living. This type of housing can also include dementia care homes.

## Local Plan policy on specialist housing

- 3.13 The Harlow Local Development Plan includes the following policy statements on specialist housing (see Appendix A)

### Older People's housing:

- 3.14 Local Plan Policy H5 on Accessible and adaptable housing includes the following:

*"The provision of specialist housing developments will be supported on appropriate sites that will meet the needs of older people and other groups."*

### Accessible housing

- 3.15 The Local Plan Policy H5 on Accessible and adaptable housing includes the following:

*To ensure that new homes are both accessible and adaptable to meet the changing needs of occupants:*

- (a) *all new dwellings should be at least Building Regulations Part M4(2) standard for accessible and adaptable homes; and*
- (b) *in major residential development, a suitable proportion of Building Regulations Part M4(3) standard dwellings for wheelchair users should be provided based on the latest Strategic Housing Market Assessment (SHMA) or other appropriate evidence directly related to the housing needs of Harlow.*

*Only where circumstances exist where it can be demonstrated by the applicant that it is not practically achievable or financially viable to deliver this policy will new development be exempt from these requirements.*

- 3.16 The Plan explains that National planning guidance states that a policy requiring wheelchair accessible dwellings should only be applied to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling. Consequently, the Council will negotiate a proportion of wheelchair adaptable (market and affordable housing) and/or wheelchair accessible (affordable housing only) dwellings, as appropriate, based on the latest Strategic Housing Market Assessment (SHMA) or other additional appropriate evidence directly related to Harlow's housing needs.

## The need for specialist housing

- 3.17 Applications for specialist housing will be supported where there is evidence of need for the particular type of specialist housing.

### Older People's housing

- 3.18 Although Harlow has a lower old age dependency ratio at 242.8 compared to the national average for England of 286.8 in 2019<sup>8</sup>, the population of older people in Harlow is growing. As a former New Town wherein the population profile was much younger, this ageing population has a significant impact on infrastructure.
- 3.19 The table below shows that the number of people across Harlow aged 65 or over is projected to increase from 13,500 in 2018 to 18,000 by 2033, which is a +33.3% increase. There are similar levels of predicted percentage increases for the categories of 75 years and older (+33.8%) and 85 years and older (+28.6%).

**Table 2: Population change in older age categories between 2018 and 2033<sup>9</sup>**

| Older age groups | 2018   | 2033   | Number change | % change |
|------------------|--------|--------|---------------|----------|
| All Older 65+    | 13,500 | 18,000 | 4,500         | +33.3    |
| All Older 75+    | 6,500  | 8,700  | 2,200         | +33.8    |
| All Older 85+    | 2,100  | 2,700  | 600           | +28.6    |

### People with dementia and early onset dementia

- 3.21 In 2016, 980 people aged over 65 years in Harlow were thought to have dementia and this number is expected to rise by 42% to 1,390 by 2030.
- 3.22 Essex County Council commissioners' report that the older population is growing in size and whilst people are staying at home longer, leading to

<sup>8</sup> Essex JSNA using the source of Office of National Statistics population projections 2016

<sup>9</sup> Source: ONS 201-based subnational population projections (as per ARC4 draft doc paragraph 9.48)

fewer residential care placements being required, the need for nursing and dementia care, is higher.

### **ECC Demand for Extra Care modelling**

- 3.23 Essex County Council (ECC) regularly under take demand modelling for specialist housing and publish market position statements.
- 3.24 ECC's demand forecasting up to 2025 for Harlow district identified a total of 3,187 households with at least one person over the age of 75 and 5,856 people over the age of 75, of which 213 have a care package funded by ECC of between 6 – 15 hours of care a week.
- 3.25 In Harlow, there is currently one existing Extra Care scheme, Sumner's Farm which provides 42 units of accommodation. The Housing LIN @SHOP tool, which is used by many authorities to predict extra care demand, estimates that there is a current need for 160 units of Extra Care in Harlow to meet 'whole population' demand (both those with and without Adult Social Care (ASC) needs).

### **People with physical disabilities and sensory impairments**

- 3.26 In Harlow 10.1% of the population aged 18 to 64 years old has a moderate or serious disability.
- 3.27 The 2015 SHMA presents evidence for the need for 10% of the market housing and 15% of Affordable Housing to meet M4(3) standards. This is on the basis that 3.3% of households in England had at least one wheelchair user as of 2011 (the figure is 7.1% for those living in Affordable Housing), and that these proportions are likely to increase in line with the ageing of the population.
- 3.28 The Council will consider the latest assessments of need, including the Strategic Housing Needs Assessment (SHMA) and the Essex Joint Strategic Needs Assessments<sup>10</sup>.
- 3.29 The Council will also consult Essex County Council to seek their advice on their priority specialists residential accommodation needs.

### **Design and layout**

- 3.30 Applicants are required to submit an Affordable and Specialist Housing Statement at pre-application and application stage as outlined in paragraph 2.16 above.
- 3.31 Specialist accommodation should be fully integrated into development proposals. For example, proposals should be located within neighbourhood centres (or within close proximity by accessible and safe routes) to ensure

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<sup>10</sup> <https://data.essex.gov.uk/dataset/exwyd/essex-jsna-and-district-profile-reports-2019>

that residents form part of local communities. Proposals should also be located close to public transport networks wherever possible to allow both residents and care staff to access the site in a sustainable and convenience way.

- 3.32 All specialist housing applications must meet the Local Plan policies and the Harlow Design Guide.  
<https://www.harlow.gov.uk/sites/default/files/documents/HEB3%20-%20Harlow%20Design%20Guide%20Supplementary%20Planning%20Document.pdf>

## Planning Obligations

- 3.33 To ensure that Specialist Residential Accommodation is delivered in a way that meets local need, the Council will seek to secure a Planning Obligation which sets out the amount, type, mix and tenure and priority mechanisms of the Specialist Residential Accommodation to be provided in perpetuity.

## Section 4 - Self-Build and Custom Build Housing / Community Led Development

### Introduction

- 4.1 This section of the SPD is to guide planning decisions made by the Council for self-build and custom build homes and Community Led Developments. It explains the planning mechanisms by which they will be delivered and sets out the Council's expectations in relation to size, type and build-route.

### National Policy

- 4.2 Self-build and custom build is defined in the NPPF 2019 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.*"
- 4.3 The Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that "both are where individuals, an association of individuals, persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals".
- 4.4 In considering whether a home is a self-build or custom build, local authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. It does not include the building of a house or plot acquired from a person who builds the house mainly to plans or specification decided or offered by that person.
- 4.5 There are various types of self-build and custom build projects including:
- *Individual self/custom build* - an individual purchases a plot of land and builds a house to live in. They may do some or all the build themselves or employ a builder, architect or project manager to oversee the build.
  - *Group self/custom build* - a group of people come together to design and develop a custom build housing development which they then live in. They may build this themselves or with help from a developer to manage the project.
  - *Developer-led custom build* - a developer divides a larger site into individual plots and provides a design and build service to purchasers. This gives people a chance to customise existing house designs to suit their needs and can sometimes offer a chance to finish the house internally. On flatted developments there may be an opportunity to provide self-finish units that meet the requirement of providing a unit as evidenced by the self-build register.

- *Community-led* - community led housing projects who help a group of people to build mostly affordable homes together, either individually or in cooperation with a builder or housing provider. This could utilise Community Land Trusts, which often take a long-term formal role in the ownership, stewardship and management of the homes to ensure they remain affordable in perpetuity. Alternatively, housing co-operatives can own or lease properties and rent them to their members who also manage and control the housing.
- *Cohousing* - a cohousing project involves a constituted group of people creating their own neighbourhood of homes, with shared facilities such as a communal house.

## Harlow's policy

- 4.6 Harlow's policy on self-build and custom build housing is set out in H9 of the Adopted Local Plan (See Appendix A for full policy)
- 4.7 The policy requires that on housing sites of greater than 50 dwellings must include the provision of fully serviced plots for self or custom build housing within each phase to ensure, as far as possible, the continuous availability of such plots throughout the development. This is subject to addition clauses which are set out in the extract from the plan in Appendix A.
- 4.8 In addition the Adopted Local Plan Policy H6 requires that an appropriate mix of dwelling tenures, types and sizes are provided on new housing developments that meet Harlow's needs. The policy requires self-build and custom-build housing plots to be provided, amongst others.
- 4.9 Policy HGT1 Development and Delivery of Garden Communities in the Harlow and Gilston Garden Town requires *(g) balanced and inclusive communities by providing a mix of housing of different sizes, tenures and types, **including provision for self- and custom-built houses and specialist accommodation.***

## Self-Build Register

- 4.10 The Self and Custom Housebuilding Act 2015 requires the Council to keep and maintain a register of individuals, and associations of individuals, who are seeking to acquire self-build serviced plots of land in the District for their own self build and custom housebuilding.
- 4.11 The register provides information on the number of individuals and associations on the register including the number of serviced plots of land sought and the preferences people on the register have indicated, such as, plot sizes and type of housing intended to be built.
- 4.12 Self and custom build properties can also be an opportunity to provide specialist accommodation. This can include bungalows for people with limited mobility, smaller plots to provide opportunities for households seeking



lower cost market housing and larger plots suitable for semi-detached properties to cater for extended families wishing to build together.

- 4.13 In principle the Council will support self and custom build housing proposals where this is meeting a demand identified by the Council's register. However, the proposal will be required to be in compliance with the wider policies and principles of the Local Plan.

## **Self / custom-build housing and Affordable Housing**

- 4.14 As highlighted above self-build and custom build housing can be considered as either market or affordable housing.

- 4.15 Under certain circumstances, it is possible that custom and self-build housing be used for delivering genuine affordable housing. For example:

- Serviced building plots are made available below market value and are subject to a legal agreement that restricts the resale value of the completed property to below market value
- Homes are built as shared ownership properties – for example where a housing association or Council constructs the homes to the waterproof 'shell' stage and then enables private homebuilders to enter into a special form of shared ownership lease to complete the property. Once the work is satisfactorily completed this earns the homebuilder an equity share in the property, which means they need a smaller mortgage or a lower deposit
- A developer or landowner could work in partnership with a recognised Housing Association or alternative affordable housing provider; or
- Where a self-builder commits (via an agreed legal document) that the resale of the dwelling shall be restricted to an eligible household for at least a 20% discount on market prices

- 4.16 However, there is no obligation on the Council to accept custom and self-build housing to be counted as part of the developer's obligation to provide affordable housing. Where it does so, the Council would have to be satisfied that such provision genuinely was affordable housing (in accordance with national definitions), and would remain so.

- 4.17 The Council is mindful that when affordable housing is included as part of the self-build allocation, the Council would require some guarantees that these plots/units will be sold/rented to someone who meets the definition of being in housing need. The Council will require a Planning Obligation to allow the Council to revisit the affordable self-build allocation if these plot/units do not sell after six months of being advertised. If no sale is agreed the Council could ask for a reasonable land value capture for the loss of the affordable self-build plot.

## **Delivering self / custom-build housing**

### **Planning applications negotiations**

- 4.18 Prospective applicants are encouraged to discuss their proposals at the earliest possible stage; through a preliminary enquiry (pre-application advice). The number of self / custom build plots on each site will be negotiated as part of the planning application process in accordance with Policy H9 of the Adopted Plan (see Appendix A).
- 4.19 It is expected that providers should seek to provide a mix of serviced plots that will meet the range of demand and affordability evidenced by local self-build register.

### **Serviced Plots of land**

- 4.20 National Planning Practice Guidance (Self-build and custom housebuilding paragraph 26) provides a definition of a serviced plot of land as a plot of land that either has access to a public highway and has connections for electricity, water and waste water, or in the opinion of the relevant authority, can be provided with access to these, within the duration of a development permission granted in relation to that land.
- 4.21 Connections for electricity, water and waste water means that the services must either be provided to the boundary of the plot so that during construction, connections can be made, or adequate alternative arrangements are possible.
- 4.22 It is recommended that plots should be grouped together within a site rather than widely dispersed.

### **Timing and marketing of serviced plots**

- 4.23 Policy H9 of the Adopted Plan requires that the development of the serviced plots must commence within one year of the completion of the phase of the allocated site. Developers should appraise the Local Planning Authority of the commencement and progress of the dwelling, to ensure compliance.
- 4.24 Policy H9 requires proof of “adequate marketing” this will include the following:
- The dates and periods of when marketing promotions were live and details of how they were promoted and to which audiences.
  - Copies of marketing materials
  - Details of any social media promotions including local promotion
  - Whether the serviced plots have been promoted on any national websites that promote self and custom build opportunities.

### **Design codes**

- 4.25 Self-build / custom builds will be expected to meet all Local Plan requirements in relation to what form of dwellings are appropriate, e.g. size, height and materials, and compliance with the Harlow Design Guide. The Harlow Design Guide SPD is also a material consideration.
- 4.26 The production of simple design codes are encouraged where clusters of self-build plots are within larger developments. The Council commits to working with developers in producing these, as they will help ensure that there is clarity and consistency for the building-out of the self-build plots within the larger site. Design codes may be expected to address the following; building form and orientation, density, building lines and types, size, height, materials, and waste facilities, as well as reference the Harlow Design Guide.

### **Planning Obligations and monitoring**

- 4.27 The Council will secure self / custom build housing requirements, through entering into a legal agreement with the developer or landowner, or receive a Unilateral Undertaking under Section 106 of the Town and Country Planning act (1990) (as amended) and in some cases, dependent on the scale or nature of development, via conditions.
- 4.28 Applicants are required to submit an Affordable and Specialist Housing Statement at pre-application and application stage as outlined in paragraph 2.16 above.
- 4.29 Developers or landowners will be expected to provide to the Council regular updates demonstrating progress made on creating the serviced plots and pro-active marketing of the plots to perspective purchasers, and sales of serviced plots.

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## Appendix A: Extracts from the Adopted Harlow Local Development Plan December 2020

### **H5 Accessible and Adaptable Housing**

To ensure that new homes are both accessible and adaptable to meet the changing needs of occupants:

- (a) all new dwellings should be at least Building Regulations Part M4(2) standard for accessible and adaptable homes; and
- (b) in major residential development, a suitable proportion of Building Regulations Part M4(3) standard dwellings for wheelchair users should be provided based on the latest Strategic Housing Market Assessment (SHMA) or other appropriate evidence directly related to the housing needs of Harlow.

The provision of specialist housing developments will be supported on appropriate sites that will meet the needs of older people and other groups.

Only where circumstances exist where it can be demonstrated by the applicant that it is not practically achievable or financially viable to deliver this policy will new development be exempt from these requirements.

### **Justification**

- 13.1 National planning guidance states that a policy requiring wheelchair accessible dwellings should only be applied to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling. Consequently, the Council will negotiate a proportion of wheelchair adaptable (market and affordable housing) and/or wheelchair accessible (affordable housing only) dwellings, as appropriate, based on the latest Strategic Housing Market Assessment (SHMA) or other additional appropriate evidence directly related to Harlow's housing needs.

- 13.2 National planning policies require Local Plans to support Building Regulations by demonstrating the need for requiring accessible dwellings. This is supported by the Joint Strategic Needs Assessment for Essex.
- 13.3 The Building Regulations, published in 2015, set out three categories of dwellings:
- Part M4(1): Visitable dwellings (all properties must be broadly accessible)
  - Part M4(2): Accessible and adaptable dwellings
  - Part M4(3): Wheelchair user dwellings
- 13.4 The SHMA (2015) projects that the number of over 65s in the Housing Market Area (HMA) will increase by approximately 47,200 people during the Local Plan period, including 23,300 aged 85 or over. Government disability data indicates that the proportion of households with at least one wheelchair user will increase during the Local Plan period. To provide for these needs, it is necessary to ensure that all future housing is flexible to meet people's changing circumstances. In addition, the SHMA sets out that 10% of market housing and 15% of affordable housing must be Building Regulations Part M4(3) standard.
- 13.5 Harlow has an ageing population, which has important implications for the future delivery of housing over the Local Plan period. Essex County Council (ECC) is the provider of social care in Harlow. ECC's approach to Independent Living (Extra Care) encourages the provision of specialist accommodation in Essex as a means by which older people can continue to live healthy and active lives within existing communities. For Harlow, the evidence base (the Housing LIN SHOP@ tool) predicts a need for 104 units of Extra Care accommodation (i.e. 'whole market demand') in addition to the current Extra Care provision in the district. This provision is in addition to the requirement for other specialist accommodation such as sheltered housing.

- 13.6 It is ECC's intention to facilitate the development of at least one 60 unit Extra Care scheme in the next five years in Harlow to meet Adult Social Care demand in the district. In addition to the Evidence Base mentioned previously, ECC will be publishing an updated Market Position Statement in 2019 setting out its intentions for the provision of Extra Care across the county, which will also inform this Local Plan. This approach to meeting the specialist accommodation needs of older people is intended to reduce the demand for residential/nursing home care across the county. Extra Care schemes are part of a wider accommodation pathway to enable older people to remain as independent as possible, with the right housing and support to meet their needs.

## Implementation

- 13.7 The Building Regulations Part M4(2) and Part M4(3) dwellings in a development should be identified in planning applications. Part M4(2) of the Regulations sets out the standards for accessible and adaptable homes, and Part M4(3) sets out the standards for wheelchair user dwellings. To ensure these standards are met, applicants should consult with the Council prior to the submission of a planning application.
- 13.8 The proportion of major residential development which is required to be of Building Regulations Part M4(3) standard is set out in the current SHMA or successor studies.

## H8 Affordable Housing

In residential developments of more than 10 dwellings, it will be expected that at least 30% affordable housing is provided.

Reduction of this percentage may be permitted for viability reasons. Any reduction or non-agreement between the developer and the Council will require an independent viability assessment.

Affordable housing within a development will normally be provided on-site unless exceptional circumstances should require it to be provided elsewhere with the agreement of the Council. Applicants will be required to submit justification for off-site construction or financial contributions.

Affordable housing provision will be expected to have regard to the recommended tenure mix identified in the latest Evidence Base on housing need and affordable housing products defined in current national planning policies.

Affordable housing will be incorporated into the overall design layout to avoid significant clustering of affordable housing. The design of affordable housing should make it indistinguishable from market housing.

Legal agreements with the Council will ensure that affordable housing benefits, for both affordable rented and intermediate housing, are secured for first and subsequent occupiers and retained as affordable

## **Justification**

- 13.9 The Strategic Housing Market Assessment (SHMA) (2015) indicates there is a need for 13,600 affordable dwellings over the Local Plan period, equating to an average of 618 dwellings per year for the Housing Market Area (HMA). Specifically for Harlow, the affordable housing need is 154 dwellings per annum (3,400 affordable homes over the Local Plan period).
- 13.10 The SHMA also shows that a significant number (85%) of affordable housing should be provided as affordable rent, normally provided by a Registered Provider or the Council. The remainder of the affordable housing should be provided as Intermediate Affordable housing at 15% of the total affordable.

## **Implementation**

- 13.11 The type, tenure and bed-size of affordable housing will be informed by the current version of the SHMA and Viability Study or successor studies.



- 13.12 Affordable housing development should be provided on the application site, which will help ensure a mix of tenures and sizes. There may be circumstances where this is not possible, and in such circumstances, where both the Council and the developer agree, a commuted sum may be acceptable.
- 13.13 The Housing and Planning Act 2016 introduced the requirement for Councils to promote the supply of starter homes. The Act sets out a definition of starter homes and signals the Government's intention to require a proportion of starter homes to be delivered on qualifying sites, the level of which will be confirmed by secondary legislation. The consultation sets out 20% of dwellings on sites larger than 10 dwellings (0.5ha). It also suggests that where the affordable housing requirement is greater than 20%, the remainder of affordable housing can only be met once the requirement of the Act is met. This policy should have regard to this once the regulations have been enacted.
- 13.14 The new Garden Communities in the Harlow and Gilston Garden Town also have an important role in diversifying the existing housing market and supporting economic aims. These sites could provide a wide range of types and tenures of homes, informed by site-specific evidence and ensuring that there is a balanced mix of sustainable and high-quality homes across the West Essex and Hertfordshire HMA.

## **H9 Self-build and Custom-build Housing**

Housing sites of greater than 50 dwellings must include the provision of fully serviced plots for self or custom build housing within each phase to ensure, as far as possible, the continuous availability of such plots throughout the development.

The number of such plots is to be negotiated on a phase by phase basis given the evidence of the Self-Build Register at the time. The arrangements to secure these plots as part of the planning permission and for their marketing to prospective purchasers are also to be agreed

with the Council.

Development of the serviced plots must commence within one year of the completion of the related phase of the allocated site. If the serviced plots have not commenced within this timeframe, they may revert to conventional development and marketing. Proof of adequate marketing of the plots to those on the self-build register will be required.

All plots for self-build or custom-build housing must be fully serviced.

Only where circumstances exist where it can be demonstrated by the applicant that it is not practically achievable or financially viable to deliver this policy will new development be exempt from this requirement.

The provision of such plots on sites of less than 50 dwellings will also be encouraged.

## Justification

- 13.15 There is a legal requirement to keep a register of people seeking to acquire land to build a home. Such housing can make a contribution to the affordable element of the housing requirement and the overall need in the district. The Council is, therefore, required to grant sufficient development permissions in respect of serviced land to meet the demand.
- 13.16 The proportion of self-build plots on sites of 50 dwellings is considered to be an appropriate level to meet the needs of those on the statutory Self-Build Register. If this proportion would not be achievable, developers will be required to submit a viability appraisal to show that the inclusion of such plots will render the scheme unviable.
- 13.17 This policy recognises that there may be self-build plots which are not developed and remain vacant, in which case the land owner may revert to conventional delivery of the site.

## Implementation

- 13.18 This policy will be delivered through the approval of individual planning applications and through conditions on planning permissions to secure the self-build plots for a period of two years.
- 13.19 Policy H6 identifies that developers must provide self-build and/or custom build housing as part of the dwelling mix. The Council encourages developers and land owners to consult the Council to establish the current demand for self-build and custom-housebuilding and meet that demand accordingly.

## **IN6 Planning Obligations**

Planning permission will only be granted for development if provision is secured for related infrastructure, affordable housing, services, facilities and environmental protection and any other planning contributions which are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

The provision of such requirements shall be secured either as part of development proposals, through the use of conditions attached to planning permissions, or through planning obligations. Where it can be demonstrated that provision on-site is not feasible then provision elsewhere, or a financial contribution towards this provision, will be required.

Where a planning application extends beyond the district boundary, prior agreement for the provision and location of any necessary obligations will need to be obtained from relevant parties.

Where the submission of a viability assessment has been justified, the Council will require an independent review of the viability of the scheme to be prepared, the costs of which shall be met by the developer. Where it is accepted that planning contributions are reduced below the requirements set out in policies of the Local Plan, a viability review mechanism will be required to enable a fully policy compliant level of contributions to be achieved over the lifetime of the project. Other than in exceptional circumstances, viability assessments will be made publicly available.

### **Justification**

- 13.20 All development has the potential to impact on the environment and place pressure on local infrastructure and services. The planning system can be used to ensure that new development contributes positively to the local environment and helps to mitigate any adverse impacts on infrastructure.
- 13.21 Section 106 agreements are a very effective means of ensuring that public services keep pace with private sector development and will play an important role in implementing the Local Plan. They can ensure relevant infrastructure and facilities are provided, the quality of a development is enhanced and schemes are enabled to go ahead that would otherwise be refused planning permission.

## Implementation

- 13.22 Planning obligations are negotiated on a case-by-case basis. The approach to development viability, including how it should be taken into account in decision making, should be in accordance with national planning guidance. Viability review mechanisms will be considered on an individual basis taking into consideration matters such as the scale and phasing of the development and may be required both early and late in the development process. Further guidance will be available in an Adopted Planning Obligations Supplementary Planning Document (SPD).
- 13.23 Development can create a need for the provision of services, facilities and infrastructure both on-site and off-site. This provision may include, but not be limited to:
- (a) affordable housing;
  - (b) open spaces and Green Infrastructure;
  - (c) communications infrastructure;
  - (d) public art;
  - (e) community and social facilities;
  - (f) transport improvements;
  - (g) culture and recreation facilities;
  - (h) utility services;
  - (i) education and health facilities;
  - (j) emergency service requirements;

- (k) measures to protect and enhance amenity or the environment, including biodiversity and wildlife habitats;
- (l) any other infrastructure items identified in the Local Plan.

13.24 Requirements for individual developments will depend on the nature of the proposals, specific site circumstances and on the requirements laid out in any adopted SPDs produced by the Council.

13.25 If the necessary requirements generated through a development cannot be achieved through negotiations or condition, they will normally be secured as planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) in association with a grant of planning permission.

13.26 In addition to securing necessary infrastructure, services and facilities, planning obligations may involve measures to ensure development takes place in an agreed way, for example, by setting out the appropriate phasing of development, and measures to meet other Local Plan policies and objectives, such as the protection of the environment.

13.27 New development can have wider impacts, such as development generating additional traffic movements outside the district or a larger application straddling the administrative boundary. In these cases, agreement may also be required with the adjoining Council and also Essex and/or Hertfordshire County Councils, as the Highway Authorities, as part of a Section 106 agreement.