



# Elmbridge Local Plan Development Contributions Supplementary Planning Document

Draft for consultation from 7 January to  
4 February 2020



**Elmbridge**  
Borough Council  
*... bridging the communities ...*

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## Abbreviations

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AA	Appropriate Assessment
AH	Affordable Housing
AMR	Authority Monitoring Report
CIL	Community Infrastructure Levy
C1 (Use Class)	Hotels <sup>1</sup>
C2 (Use Class)	Residential Institutions <sup>2</sup>
C3 (Use Class)	Dwellinghouses <sup>3</sup>
C4 (Use Class)	House in Multiple Occupation (HMO) <sup>4</sup>
IDP	Infrastructure Delivery Plan
EIR	Environmental Information Regulations
FOIA	Freedom of Information Act
HE	Homes England
IDP	Infrastructure Delivery Plan
JSPB	Joint Strategic Partnership Board
LHA	Local Housing Allowance
NPPF	National Planning Policy Framework
NTSS	Nationally Technical Space Standards
OMV	Open Market Value
PPG	Planning Practice Guidance
PiP	Permission in Principle
RP	Registered Provider of Social Housing
RICS	Royal Institution of Chartered Surveyors
RSH	Regulator of Social Housing
SANG	Suitable Alternative Natural Greenspace
SAMM	Strategic Access Management and Monitoring
SANG	Suitable Accessible Natural Greenspace
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPA	Special Protection Area
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
VBC	Vacant Building Credit
WMS	Written Ministerial Statement

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<sup>1</sup> As defined in The Town and Country Planning (Use Classes) Order 1987 (as amended)

<sup>2</sup> See footnote 1

<sup>3</sup> See footnote 1

<sup>4</sup> See footnote 1

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# 1. Introduction

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- 1.1 A commitment to providing adequate infrastructure alongside new development, increasing the delivery of affordable housing and mitigating adverse effects on ecologically sensitive areas are strong themes within the Elmbridge Local Plan documents.
- 1.2 This Supplementary Planning Document (SPD) provides greater detail on the practical application of the relevant policies and aims of the Local Plan to bring together the Council's approach to seeking contributions from new development to address the cumulative impacts on infrastructure, Thames Basin Heaths Special Protections Area (SPA) and to deliver affordable housing.
- 1.3 There are currently two mechanisms enabling the delivery of these goals - Community Infrastructure Levy (CIL) and Planning Obligations. This SPD is an update of its original version 'Developer Contributions Supplementary Planning Document' published in April 2012 and has been developed to assist applicants, developers and residents in understanding how these mechanisms are applied in Elmbridge.

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## 2. Community Infrastructure Levy

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### Overview

- 2.1 Community Infrastructure Levy (CIL)<sup>5</sup> enables local authorities to secure appropriate financial contributions to meet the infrastructure requirements arising from new development. Developers may be required to directly provide specific infrastructure through planning obligations to mitigate the direct impact of the development proposed (e.g. a specific road junction or crossing), however a standard fee is also charged through CIL to enable the delivery of new or improved infrastructure needed to support the development generally (e.g. a new school, improvements to open space etc). The CIL contribution is then combined with contributions from other developments to deliver items of infrastructure.
- 2.2 CIL is utilised to fund infrastructure in support of development across the Borough. The Borough wide improvements are delivered in conjunction with infrastructure providers. The infrastructure includes but is not limited to:
- roads and other transport infrastructure
  - flood defenses
  - schools and other educational facilities
  - medical facilities
  - sporting and recreational facilities
  - open spaces
- 2.3 In Elmbridge the collection of CIL started in April 2013. The levy is non-negotiable.

### Which development is CIL liable?

- 2.4 CIL is calculated in accordance with The Community Infrastructure Levy Regulations 2010 (as amended) and is payable on all development where there is new build floorspace, subject to the exemptions set out below.
- 2.5 Within Elmbridge CIL is currently payable on residential and retail<sup>6</sup> developments that include any new build of 100 square metres (sqm) or more gross internal floorspace. Any development that involves the creation of an

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<sup>5</sup> The Planning Act 2008 sets out the legal principles for the CIL which then came into force in the Community Infrastructure Regulation 2010 (as amended) ([www.legislation.gov.uk](http://www.legislation.gov.uk))

<sup>6</sup> Uses falling within Use Classes A1 – A5 as defined in The Town and Country Planning Use Classes Order 1987 (as amended)

additional dwelling however, even when the floor area is below the 100sqm threshold<sup>7</sup>, is also subject to the levy.

- 2.6 Based on a viability study and following the examination in public, the [CIL charging schedule](#) was set in 2013 at:
- £125 per sqm for residential dwellings (Use Class C3); and
  - £50 per sqm for retail development (Use Classes A1-A5)

The above rates are subject to indexation applied in accordance to the CIL regulations. For the current rates please see the Council's website.

- 2.7 Examples of various scenarios associated with the implementation of the CIL charging schedule are set out in Appendix 1.

## How is CIL calculated?

- 2.8 CIL is calculated per sqm of development on gross internal area (GIA). GIA is the area of a building measured to the perimeter walls at each floor level. In accordance with the Royal Institution of Chartered Surveyors (RICS) GIA definitions are set out in Appendix 2.
- 2.9 An Affordable Housing, Strategic Access Monitoring and Management (SAMM) and CIL Liability Calculation Sheet is available on the Council's website to assist applicants investigating potential development liabilities.

## CIL exemptions

- 2.10 A number of development types are exempt from paying CIL, subject to an approved application. These include exemptions for self-build housing, residential annexes and extensions, charitable developments and social housing. In setting out the CIL charging schedule, the Council considered that there were no exceptional circumstances in the Borough that would require considerations of discretionary exemptions, as set out in the CIL Regulations.
- 2.11 The Government's Planning Policy Guidance (PPG) provides the most up-to-date [CIL guidance](#)<sup>8</sup> and further information on specific requirements relating to exemptions and procedures.
- 2.12 Development that does not require planning permission ('permitted development') may be of a sufficient scale to be liable to CIL. It is the responsibility of the developer to serve a Notice of Chargeable Development to the Council before development starts.

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<sup>7</sup> Part 11 of the Planning Act 2008 and Community Infrastructure Levy Regulations 2010 (as amended)

<sup>8</sup> PPG Reference ID: 25-104-20190901

## When does development become CIL liable?

- 2.13 Charges become due from the date that a chargeable development is commenced. For the purposes of CIL, the commencement of development means carrying out a 'material operation' defined in section 56(4) of the Town and Country Planning Act 1990. If planning permission is granted after commencement, the development is deemed liable when permission is granted.
- 2.14 The Council operates the following installment policy:
- CIL of under £12,500 is due at 90 days after commencement;
  - CIL of between £12,500 and £50,000 in two equal instalments at 90 and 180 days after commencement; and
  - CIL of over £50,000 in three equal instalments is due at 90, 180 and 270 days after commencement.
- 2.15 In accordance with the CIL Regulations where the requisite CIL payment is not paid in compliance with the above schedule and when requested, any late payment will be subject to a late payment interest charge set at 2.5% above the Bank of England base rate. Failure to provide a CIL Commencement notice prior to commencement of development is subject to a surcharge of 20% of chargeable or notional<sup>9</sup> amount, or £2,500, whichever is the lower.

## CIL funding

- 2.16 Spending of CIL can be prioritised according to essential and desirable infrastructure<sup>10</sup>. The Council will prioritise the delivery of Suitable Alternative Natural Greenspace (SANG) as an item of essential infrastructure in order to meet the requirements of European legislation and mitigate the adverse impacts of development on the Thames Basin Heaths SPA.
- 2.17 CIL Annual Monitoring Reports are published on the Council's website<sup>11</sup>. These reports confirm the overall CIL receipts and expenditure in the relevant year. From December 2020 the Council will publish an Infrastructure Funding Statement in accordance with the CIL regulations (2019). This will replace the CIL Annual Monitoring Report.

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<sup>9</sup> Notional amount relates to the S73 applications only.

<sup>10</sup> Essential infrastructure - infrastructure without which development would simply not take place;

Desirable infrastructure – infrastructure which provides additional facilities and services in an area to take account of the proposed level of new development but that would not prevent development from occurring.

<sup>11</sup> <https://www.elmbridge.gov.uk/planning/community-infrastructure-levy-cil-funding/>

## **Strategic spending process**

- 2.18 CIL allows the Council to raise funds from certain types of new development to help fund the physical infrastructure needed to mitigate the impacts of new development. The bulk of the money raised goes towards strategic Borough wide schemes such as highway schemes, permanent school expansions or flood works.
- 2.19 Within the Council a Strategic Spending Board, made up of local councillors, considers the spending proposals that infrastructure providers submit annually for strategic Borough wide infrastructure. This Board makes recommendations as to which strategic projects should be funded, with the final spending decision confirmed by Cabinet.

## **Local spending process**

- 2.20 As part of the process, the Council also allocates a portion of the CIL funds to be spent locally on smaller infrastructure schemes that are required in the communities where development took place.
- 2.21 The Council has formed settlement area committees known as 'Local Infrastructure Spending Boards' where local Councillors decide on how these local CIL funds are allocated within their area. In the case of Claygate, the local proportion of CIL funds is passed directly to the Parish Council.
- 2.22 Successful local CIL applications for funding to date have included projects such as capital improvements to state schools to better enable them to meet the needs of an increasing school population, improvements to community facilities, footpath works and countryside access improvements.

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## 3. Thames Basin Heaths Special Protection Area

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- 3.1 The Thames Basin Heaths Special Protection Area (SPA) was designated on 9th March 2005 and forms part of Natura 2000, a European-wide network of sites of international importance for nature conservation established under the European Community Wild Birds and Habitat directives. The SPA is one of the South East's most important natural assets with the lowland heath supporting important populations of vulnerable ground-nesting birds - Dartford Warbler, Nightjar and Woodlark.
- 3.2 The SPA covers areas of heathland across 11 local authority areas in Surrey, Hampshire and Berkshire. Within Elmbridge the area covers Chatley Heath, part of the Ockham and Wisley Commons Site of Special Scientific Interest (SSSI) to the south of the Borough, in an area between the M25, the A3 and the Borough boundary.
- 3.3 The European and national legislation that underpins the SPA seeks to ensure that any proposed development scheme or plan does not adversely affect the integrity of the SPA. Natural England, a non-departmental public body, whose purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development, have advised that new housing within 5km of the SPA may harm the rare birds' populations. This harm can be caused by disturbance to the birds from walkers, cats and dogs frequenting the heathland, and other recreational activities arising from additional housing.
- 3.4 The SPA project that seeks to mitigate for this identified harm is coordinated strategically through a Joint Strategic Partnership Board (JSPB)<sup>12</sup> which brings together representatives of the 11 affected local authorities, county councils, landowners and environmental groups.

### Planning Policy and Context

- 3.5 This section of the SPD provides updated guidance on how the avoidance and mitigation strategy is applied to avoid or minimise any adverse effects of the additional new residential occupancy within the defined buffer zones of the Thames Basin Heaths SPA.

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<sup>12</sup> JSPB - <https://www.surreyheath.gov.uk/residents/planning/planning-policy/joint-strategic-partnership>

- 3.6 The Thames Basin Heaths SPA is protected from adverse effects under The Conservation of Habitats and Species Regulations 2017 and the European Directive 2009/147/EC.

### **National Planning Policy Framework (2019)**

- 3.7 Chapter 15 of the National Planning Policy Framework (NPPF) is concerned with conservation and enhancement of the natural environment. Paragraph 177 confirms that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

### **Regional Planning Policy**

- 3.8 Policy NRM6: Thames Basin Heaths Special Protection Area is the only policy of the South East Plan (2009) that remains in force, following the remainder of the Plan being revoked in 2013. Policy NRM6 sets out the principle of the protection of the Thames Basin Heaths SPA in the South East.

### **Local Planning Policy**

- 3.9 Policy CS13: Thames Basin Heaths SPA of the Elmbridge Core Strategy (2011) draws on the requirements of Policy NRM6 of the South East Plan (2009) and sets out a local framework to ensure that the SPA is protected from the implications of additional residential development and appropriate mitigation is secured.

### **Mitigation measures**

- 3.10 The Thames Basin Heaths SPA Delivery Framework<sup>13</sup> sets out the principles for ensuring the protection of the SPA. The measures to avoid harm to the SPA include:
- 400m (linear) buffer zone around the SPA  
No net additional residential development will be permitted within this zone;

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<sup>13</sup> Delivery Framework – <https://surreyheath.gov.uk/residents/planning/planning-policy/joint-strategic-partnership>

- 400m and 5km buffer zone  
Any additional residential development will need to provide the following mitigation:
  - Provision of Suitable Alternative Natural Greenspace (SANG); and
  - Financial contribution towards the Strategic Access Management and Monitoring (SAMM) measures;

SANG is combined with SAMM measures to manage recreational pressure on the SPA itself. As a consequence of these measures, an appropriate mitigation must be provided for any new residential development within this buffer zone.

- 5km – 7km buffer zone from the SPA  
Major residential developments of 50 units and more within the zone will be considered in consultation with Natural England on a case-by-case basis in order to ascertain whether these should provide appropriate mitigation (SANG and SAMM).

- 3.11 To meet the requirements of European legislation and to mitigate the adverse impacts of development on the Thames Basin Heaths SPA, SAMM contribution is non-negotiable. Without such contribution, development is likely to be unacceptable and would be refused.
- 3.12 A financial contribution towards SAMM has to be secured by a legal agreement prior to determination of the relevant application. The Council published a [template legal agreement](#)<sup>14</sup> for applicants to use.

### **Suitable Alternative Natural Greenspace (SANG)**

- 3.13 The aim of SANG is to attract informal recreation users, such as walkers, away from the SPA. This can be in the form of new open space, or the improved existing open space, with a capacity for informal recreation to a minimum standard of 8 hectares per 1,000 residents.
- 3.14 The Borough currently has two designated SANGs, at Brooklands Community Park and Esher Common, and associated programmes for their enhancement and maintenance. Their capacity is regularly monitored and published in the Council's Infrastructure Delivery Plan (IDP).
- 3.15 SANG falls within the definition of infrastructure and therefore contributions must be collected through CIL. In order to ensure that SANG is delivered, the Council ring fence the required amount of funding for SANG from all CIL eligible development that has been delivered within 400m - 5 km linear distance of the SPA. Money for other infrastructure within this zone is allocated once the necessary SANG allocation has been deducted.

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<sup>14</sup> Please see the Unilateral Undertaking template on the Council's website

## **Strategic Access Management and Monitoring (SAMM)**

- 3.16 In addition to SANG, SAMM forms part of the approach to mitigating adverse effects of additional residential development in the buffer zone of the SPA. The SAMM project introduces mitigation measures on the SPA itself, including a monitoring programme that provides the baseline assessment and ongoing data to measure the effect of visitor numbers on the SPA. It also evaluates the success of avoidance and mitigation measures, including the effectiveness of SANG. The access management element focuses on “soft”, non-infrastructure measures e.g. wardening, leaflets and educational material.

## **Development that qualifies for SAMM contributions**

### **Full planning applications and changes of use under permitted development procedures**

- 3.17 New or additional developments falling within Use Classes C1 (hotels), C2 (residential institutions), C3 (dwellingshouses; only where there is a net gain of homes) and C4 (houses in multiple occupation) are considered to give rise to likely significant effect on the SPA and are required to contribute towards SAMM. Replacement dwellings do not qualify for a provision of mitigation measures.
- 3.18 Proposals for other forms of development either due to their proximity to the SPA or where the use is a quasi-residential use such as certain types of hotels, will be required to contribute towards avoidance measures. In such cases this will take the form of a contribution to SAMM measures.
- 3.19 Large residential development proposals of 50 homes and more within the 5km – 7km buffer zone of the SPA, which due to their scale, potential impact and ability to offer their own alternative avoidance measures, such as a bespoke SANG, will be considered on a case by case basis.
- 3.20 Conversions from C3 (Dwelling Houses) to C4 (Houses of Multiple Occupation) are considered to give rise to likely significant effect on the SPA. Such development would require the Prior Approval<sup>15</sup> of the Borough Council and likely a SAMM contribution.

### **Prior Approvals for a change of use to residential**

- 3.21 Prior Approvals for a change of use to residential within the 5km buffer zone of the SPA are liable to compensate for the potential impact, either individually or in combination with other developments, of additional residential occupancy

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<sup>15</sup> Regulation 77 of the Conservation of Habitats and Species Regulations 2017

on the integrity of the SPA. SAMM contribution to be secured by a completed legal agreement is therefore required prior to determination of Prior Approval. Applicants should be aware that the Council is unable to agree extensions of time for determination of Prior Approvals and therefore where a satisfactory legal agreement is not received in a timely manner, proposals would be refused.

### **Permission in Principle**

- 3.22 Permission in Principle (PiP) cannot be granted for a ‘habitats development’<sup>16</sup>. Any PiP development proposal within the 5km buffer zone of the SPA would be a subject to an Appropriate Assessment. The applicants are encouraged to provide relevant mitigation measures in the form of a legal agreement securing the requisite financial contribution towards SAMM, taking into consideration the statutory determination deadline for PiP. Where such mitigation is not provided, the likely result of the Appropriate Assessment would be that the proposal would result in an adverse impact on the integrity of the SPA and warrant a refusal of PiP. The Council will process PiP requests in accordance with the most up to date guidance and case law.

### **Any other types of development**

- 3.23 Future changes to the legal/regulatory frameworks or to Government policy may mean that certain types of development which currently require planning permission may not do so in future. However, if there is a net gain in housing units as set out above, the development will require the Prior Approval of the Borough Council and is likely to be required to contribute towards SAMM. Such cases would be dealt with on an individual basis and applicants are encouraged to seek advice before submitting a planning application or carrying out conversions under Permitted Development Rights.

### **Exemption to SAMM contribution**

- 3.24 In the interest of consistency with the approach taken to CIL and in recognition of the importance of affordable housing provision in the Borough, the tariff does not apply to affordable homes. A 34%<sup>17</sup> supplement is applied

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<sup>16</sup> Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended). The “habitats development” means development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site.

<sup>17</sup> The affordable housing target contained within Core Strategy Policy CS21: Affordable Housing (1,150) as a proportion of the overall housing target in Policy CS2: Housing provision, location and distribution (3,375)

to all other residential units to compensate for the exclusion of affordable housing. This has been reflected in the tariff calculations in Table 1 below.

## Calculating SAMM

- 3.25 The SAMM tariff depends on the number of bedrooms<sup>18</sup> and is based on local occupancy figures and the projected mix of housing likely to be delivered in the local area.
- 3.26 The methodology for calculating a local ‘per bedroom’ tariff for Elmbridge is in accordance with the methodology in Natural England’s SAMM Tariff Guidance document<sup>19</sup>.

Table 1: Elmbridge SAMM tariff

No of bedrooms <sup>86</sup>	Occupancy	Tariff @ £392 per person
1	1.31	514
2	1.76	670
3	2.51	984
4	2.86	1,121
5+	3.73	1,462

- 3.27 For the purposes of SAMM calculation for conversions from C3 use to C4 use, each C4 use bedroom will be considered to have an average occupancy rate of 1 person, unless there is evidence to suggest that a higher rate of occupation will be achieved. The occupancy rate of the existing C3 dwelling house will be subtracted from the occupancy of the Housing in Multiple Occupation (HMO) to calculate the number of persons for whom avoidance is required. A worked example (Example A) is shown below to illustrate this calculation:

### Example A – Calculation of a C4 property’s occupancy

Conversion of a 3 bed C3 dwelling house to 5 bed HMO:  
 Existing Occupancy Rate (C3): (3 bed, from Interim Strategy) 2.51 people  
 HMO Occupancy Rate: (1 x 5) 5 people  
 Avoidance Measures Required: (5 - 2.51) 2.49 people

<sup>18</sup> For the purposes of clarity when calculating the number of bedrooms for the purposes of calculation of the contribution, additional habitable rooms capable of realistic conversion to bedrooms will be included. Habitable rooms capable of future conversion into a bedroom will include, for a dwelling house with more than one storey, any room at first floor level and above with an external window (excluding bathrooms and the like), with a floor area greater than 6.5 sqm.

<sup>19</sup> Natural England SAMM tariff guidance – <https://www.surreyheath.gov.uk/residents/planning/planning-policy/community-infrastructure-levy-cil/samm-tariff-guidance>

## Spending SMM

- 3.28 The SMM project is jointly funded through developer contributions collected across the 11 affected authorities and provided for in perpetuity<sup>20</sup>. It is coordinated strategically through the Joint Strategic Partnership Board by Natural England with Hampshire County Council fulfilling the role of Treasurer. The charge collected is pooled with other SPA affected local authorities for strategic allocation. The Council has been collecting SMM since October 2010 and all parties signed a Memorandum of Agreement in June 2011 to facilitate the transfer of funds for strategic allocation and delivery of the project. The Council transfers SMM monies every quarter to Hampshire County Council for strategic allocation. Further details of the project can be found in the Infrastructure Delivery Plan available on the Council's website<sup>21</sup>.
- 3.29 Contributions may also be used to fund the staffing costs for monitoring and administration either within the Borough Council or by a joint body to oversee parts or all of this work. Monitoring includes surveys to check visitor numbers to SANGs and to the SPA.

## Monitoring and Review

- 3.30 The amount of SMM collected and transferred for strategic allocation is recorded in the Council's Authority Monitoring Report (AMR)<sup>22</sup>.
- 3.31 Natural England is committed to reviewing the tariff guidance regularly. Once amendments are agreed by the JSPB any changes made will be reflected in reviewing this local tariff and will be available on the Council's website.

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<sup>20</sup> Perpetuities and Accumulations Act 2009 – [www.legislation.gov.uk](http://www.legislation.gov.uk)

<sup>21</sup> [www.elmbridge.gov.uk/planning/planning-policy](http://www.elmbridge.gov.uk/planning/planning-policy)

<sup>22</sup> <https://www.elmbridge.gov.uk/planning/planning-policy/monitoring-reports-action-plans-and-article-4-directions/>

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## 4. Affordable Housing Contributions

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### Planning Policy and Context

- 4.1 The cost of housing in the UK and its impact on local people is a key concern for most local authorities, ranking higher than long-held concerns on health and social care services. Whilst high house prices and subsequent affordability issues are not particularly unique when it comes to the South-East region; with most areas now becoming ‘unaffordable’ to the first-time buyer, the region is becoming increasingly polarised with house prices ranging from nearly £759,000 in Elmbridge Borough compared to just over £208,000 in Gosport.
- 4.2 Average (mean) house prices in 2016/17 in Elmbridge Borough were exceptionally high, amongst the highest in the country and, as prices continue to rise, are now 2.6 times that of the national average. In addition, when compared to the South East and Surrey averages (mean), house prices in Elmbridge Borough are now double the South East average and one and a half times that of the Surrey average. Continued increases in house prices in Elmbridge Borough show that the area is becoming increasingly expensive and at a quicker rate than most areas. For example, over the last decade (2007 – 2017), house prices have increased by 54% in comparison to the England average of 38%.
- 4.3 ‘To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.’<sup>23</sup>
- 4.4 ‘Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:
- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
  - b) the agreed approach contributes to the objective of creating mixed and balanced communities.’<sup>24</sup>
- 4.5 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. Affordable homes comprise the affordable housing for rent, starter homes, discounted market sales

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<sup>23</sup> NPPF 2019 - Paragraph 59

<sup>24</sup> NPPF 2019 - Paragraph 62

housing and other affordable routes to home ownership, e.g. shared ownership, relevant equity loans, other low cost homes for sale or rent to buy. The main types of affordable housing are defined in the National Planning Policy Framework (NPPF)<sup>25</sup>.

4.6 The requirement for contributions towards the affordable housing is set out in Policy CS21 of the Elmbridge Core Strategy 2011. The policy aims to increase the overall delivery of affordable housing in the Borough and to help meet an identified local need. The Council requires provision of affordable housing, where viable, on sites with a net increase in the number of residential units as follows:

- 40% of the gross number of dwellings on sites of 15 dwellings or more;
- 30% of the gross number of dwellings on sites of 6 – 14 dwellings;
- 20% of the gross number of dwellings on sites of 5 dwellings; and
- A financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1 – 4 dwellings.

Furthermore, where development is proposed on a greenfield site<sup>26</sup>, at least 50% of the gross number of dwellings should be affordable on any site of 15 dwellings or more. A target of at least 50% will apply to public land<sup>27</sup>, regardless of the number of dwellings proposed. The Council reserves the right to apply the policy using habitable rooms, where this helps to achieve a better mix of dwellings in accordance with the objectively assessed identified need outlined in the most up-to-date Strategic Housing Market Assessment (SHMA). Table 2 below indicates the current proportional need of various affordable housing tenures across the Borough in accordance with the dwelling size based on SHMA 2016.

Table 2: Proportional need (%) for affordable housing tenure in Elmbridge

	Social rented sector	Affordable rented sector	Intermediate sector
1 bed	75	12	13
2 bed	66	19	15
3 bed	59	26	15
4+ bed	56	28	16

4.7 The policy applies only to developments in Use Class C3.

<sup>25</sup> NPPF 2019 – Annex 2: Glossary

<sup>26</sup> 'Greenfield site' is land that is not a 'previously developed land' as defined by the NPPF. For the purposes of this SPD, it excludes residential garden land.

<sup>27</sup> For the purposes of this SPD, 'public land' is defined as 'land that is owned or in use by a public sector organisation, or company or organisation in public ownership or land that has been released from public ownership and on which housing development is proposed.'

## Intermediate housing

- 4.8 Intermediate affordable housing can play an important role in meeting the housing needs of those who can afford to pay more than social rents (and who are unlikely to be a priority for this type of accommodation) but who cannot afford suitable housing in the open market.
- 4.9 There is a variety of intermediate affordable housing products, however, shared ownership housing is one form of intermediate housing and has been in the past the most popular form of intermediate tenure provided within Elmbridge through the planning system. With shared-ownership the applicant acquires a new-build property from a Registered Provider on a part rent / part buy basis. The applicant raises a mortgage in the normal way to buy a share of the property and pays subsidised rent on the remaining share. The applicant can then increase their share in the property as their finances improve if they wish until they own the property outright, a process known as staircasing.
- 4.10 The Council wishes to ensure that intermediate affordable housing provided within the borough is a realistic and affordable option for households across a spread of incomes, from £20,000 to £80,000 (gross) rather than only being available to households with incomes towards the upper end of this spectrum. Furthermore, applicants/developers will need to demonstrate that any proposed intermediate affordable housing meets the definition of affordable housing, in that it should be available at a total monthly cost which is less than the costs of buying or renting privately within Elmbridge<sup>28</sup>.
- 4.11 In order to ensure that shared-ownership is genuinely affordable to households across the target income bracket (and not merely to those at its higher end) the Council will seek a commitment, through any Unilateral Undertaking / Section 106 agreement, that the Registered Provider / Affordable Housing Provider will endeavour to limit the average initial equity share sold at first disposal to no more than 35% of the open market value. This provides flexibility to dispose of higher shares to those households which can afford larger shares, whilst allowing smaller shares to be sold to those with more limited means. The planning agreement will also put upper limits on the annual rents on the share retained by the affordable housing provider (on shared-ownership) at less than the 2.75% of the unsold equity. Providers will also be expected to keep service charges down to a reasonable level.

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<sup>28</sup> Data on market rents in Elmbridge is available from the Valuation Office Agency - <http://www.gov.uk/voa>

## Use Class C2 vs Use Class C3

- 4.12 Residential development proposals are sometimes described as Use Class C2 (residential institutions, care to people in need of care and nursing homes) instead of Use Class C3 (dwellinghouse) in order to avoid making a contribution towards the affordable housing. Therefore, the Council will carefully scrutinise the development proposals to ensure that the language used to describe the proposed accommodation is not disguising its intended use. In addition, the Council will consider the available evidence as to whether the proposed development's Use Class (or mix of Use Classes) is fulfilling a local need.
- 4.13 To establish whether the proposed use falls within the Use Class C2 or C3, the applicants will have to submit a full specification of the offered services and facilities to justify the C2 use. In particular, the Council will seek clarification on the following matters, as to what:
- legal restrictions apply to the occupation of the units;
  - arrangements are in place in relation to the availability of care from a registered care provider;
  - eligibility criteria apply at the admission/sign-up stage. Do prospective occupiers have to have a need for paid care (above a minimum number of hours per week) at the point of moving in? Is this confirmed by a formal care assessment? Are residents required to pay for a minimum number of hours of care per week as a condition of occupation? How many hours of care must residents agree to?
  - the arrangements for and availability of meals are;
  - the extent of the communal facilities is;
  - the ownership arrangements (freehold/leasehold/rent) are.
- 4.14 Mixed care development proposals may contain both C3 and C2 uses and these elements will be treated separately by the Council in order to ensure that appropriate and much needed affordable housing contributions are secured.
- 4.15 Further information can be found in the 'Development Management Advice Note 3: Specialist Accommodation Need' on the Council's website<sup>29</sup>.

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<sup>29</sup> [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)

## When is a contribution towards the affordable housing required?

- 4.16 The NPPF<sup>30</sup> incorporated the provision set out in the Written Ministerial Statement (WMS) in relation to affordable housing contributions. This introduced a conflict with the Council's approach to affordable housing provision set out in Policy CS21. A [Statement on Affordable Housing Provision on Small Sites](#)<sup>31</sup> outlines the Council's position on the NPPF and how it intends to take forward decisions where there is a conflict between local and national policy.
- 4.17 Elmbridge has some of the highest land values and property prices in the country. This makes it extraordinarily difficult for residents to find reasonably priced homes either to buy or to rent. However, it also means that nearly all development for new homes in the Borough can make full affordable housing and CIL contributions.
- 4.18 To support the continued implementation of Policy CS21, the Council commissioned external consultants to undertake a [Viability Report](#)<sup>32</sup> (with an [Appendix](#)<sup>33</sup>) to review the approach to seek affordable housing contributions on residential sites of fewer than 10 units/1,000sqm. The Council intends to undertake regular reviews on its approach and further updates will be published on the Council's website.
- 4.19 Policy CS21 sets out a target for the number of affordable homes Elmbridge seeks to deliver by 2026 and the proportion of affordable housing, or the financial contribution to support their delivery that is expected to be provided where there is an increase in housing on development sites. Due to the continuing housing affordability challenges in Elmbridge and the reliance on small sites for much of the housing developed in the Borough, the Council continues to seek affordable housing contributions from smaller sites.
- 4.20 Planning applications for an increase in the number of dwellings are expected to provide the affordable housing contribution in the form of a financial and/or on-site/off-site contribution. This contribution must be secured by a legal agreement prior to determination of the application. To assist the applicants, the Council published a [template legal agreement](#)<sup>34</sup>. Where a bespoke legal agreement is necessary, the applicant is expected to cover the Council's legal fees associated with the preparation of such a document.

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<sup>30</sup> NPPF 2019 paragraph 63

<sup>31</sup> See Appendix 3 (Statement on Affordable Housing Provision on Small Sites)

<sup>32</sup> See [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)

<sup>33</sup> See [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)

<sup>34</sup> Please see the Unilateral Undertaking template on the Council's website

## How is Policy CS21 applied in practice?

- 4.21 The policy applies to the gross number of units proposed on all housing sites, mixed use sites that incorporate an element of residential development, sheltered and extra care schemes (falling under Use Class C3), where there is a net increase in the number of units on the site. For example, where it is proposed to demolish 5 houses and to build 10, the policy would be applied to 10 units. The policy does not apply to developments where there is no net increase in the number of units on a site, e.g. 5 dwellings being replaced with 5 dwellings or proposals for replacement dwellings ('one for one's'). Where additional units are being provided on a site where there are existing units, which will remain, the policy will apply to the net increase only.
- 4.22 The policy applies to the conversion or change of use of any building, whether or not it is already in residential use. The policy does not, however, apply to:
- residential accommodation, which is to be used as incidental to the main dwelling and whose independent occupancy is restricted by condition e.g. staff/student accommodation, granny annex;
  - any residential accommodation associated with the educational facilities within the grounds of schools, which cannot be let or sold as independent market dwellings/flats and this is secured by condition;
  - flats above shops, which do not have a separate access (access is through the shop) and their use is restricted in association with the shop;
  - any part-time/non-permanent accommodation i.e. holiday accommodation where full time occupancy is restricted by condition;
  - housing for more vulnerable members of the community e.g. those with mental health problems or physical disabilities that require a high level of on-site support and their use is restricted by condition in these terms;
  - accommodation for Gypsies and Travellers; and
  - accommodation falling within Use Class C2.
- 4.23 Where sheltered schemes (C3 Use Class) are required to make a contribution, due to a current oversupply of sheltered housing for rent, a financial contribution will be required.
- 4.24 The size of the development should not be artificially reduced in order to reduce or eliminate the affordable housing requirement, for example by subdividing sites or reducing the density of whole or part of a site. The Council will have regard to all policies within the Elmbridge Local Plan to ensure the efficient use of land and delivery of development that meets local need. Where proposals do not accord with these policies applications would be refused.

## Design standards

- 4.25 To aid the promotion of inclusive and sustainable communities, the provision of on-site affordable housing should integrate seamlessly into the layout of the development through ‘pepper-potting’ within private housing. Within apartment blocks it is accepted that management issues mean whole blocks will generally be affordable or market housing and that affordable units will be provided in clusters as part of larger schemes.
- 4.26 The Council seeks high design and architectural standards for all development<sup>35</sup>. The affordable housing element of any proposed development should therefore be of the same build quality and appearance as the market housing and must comply with the National Technical Space Standards (NTSS)<sup>36</sup>. Use of substandard materials or poor finishing and detailing will not be acceptable.
- 4.27 Applicants are expected to design the affordable units in accordance with the NTSS and specifically not to exceed the given floor areas by more than 10% unless exceptional circumstances are demonstrated, for example a unit is built to meet the lifetime homes standards. This is to ensure the affordability of the implemented units considering the service charges (for the flatted schemes), cost of heating etc, ultimately securing the viability of the units at the point of their transfer to the RPs at the completion stage. This also ensures compliance with the policy requirement for the effective use of land.

## How is a financial contribution towards the affordable housing calculated on sites of up to 4 units?

- 4.28 For the reasons of viability and housing management, on-site provision of affordable homes on sites of 4 or less dwellings can be problematic and therefore on such sites a financial contribution equivalent to 20% affordable housing provision is required.
- 4.29 The Council will seek a financial contribution that would allow affordable housing providers to secure the land in lieu of and equivalent to on-site provision. The proposed approach involves approximating the land value that needs to be replaced elsewhere and allowing for the cost of acquiring and servicing that land e.g. providing access and utilities. The affordable housing percentage is then applied to this figure, i.e. 20%. This methodology can be also used to calculate financial contributions where, in exceptional circumstances, this is agreed in lieu of on-site provision and the appropriate

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<sup>35</sup> NPPF and the National Design Guide  
(<https://www.gov.uk/government/publications/national-design-guide>)

<sup>36</sup> <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

percentage equivalent to that would have been sought on-site in accordance with Policy CS21.

- 4.30 The methodology is described in more detail below and in Appendix 4 that includes a worked example.

**Summary of methodology for calculating a financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1-4 dwellings**

- Step 1 – Open Market Value (OMV) of the relevant or comparative development  
Step 2 – Multiply the OMV (Step 1) by the residual land value percentage (39.2%)  
Step 3 – Add 15% of the result of Step 2 to reflect site acquisition and servicing costs.  
Step 4 – Apply the affordable housing policy percentage (i.e. Step 3 x 20%)

Step 1 of 4 – OMV of the relevant or comparative development

- 4.31 This is the expected sale price of the property, or properties, proposed on the development site, divided by the size of the property (Gross Internal Floor Area) and multiplied by the affordable housing size that would have been required on-site.
- 4.32 The applicant is required to inform the Council of the anticipated OMV of the proposed development. This should reflect the location, size and type of the property, or properties, and should be supported by appropriate evidence<sup>37</sup>.
- 4.33 The affordable housing property size equivalents (i.e. relevant or comparative development) shown below have been based on the nationally set minimum space standards<sup>38</sup>. The affordable housing equivalent closest to the size (no. of bedrooms) and type (no. of storeys) of the proposed market units will be applied as set out in Table 3 below.

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<sup>37</sup> Please see footnote 19

<sup>38</sup> 'Technical housing standards – nationally described space standard'  
<https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

Table 3 – Size of affordable housing unit equivalent to the market housing

	Dwelling type (bedrooms)	Minimum gross internal area (sqm)
Single floor dwelling	1	44
	2	66
	3	86
	4	104
	5	112
	6	120
Two storey dwelling	1	58
	2	75
	3	93
	4	111
	5	119
	6	128
Three storey dwelling	3	99
	4	117
	5	125
	6	134

Step 2 of 4 – Multiply the OMV (Step 1) by the residual land value percentage (39.2%)

- 4.34 This is the value of the land to the applicant after all of the development costs associated with planning and constructing the property, or properties, including the developer's profit, are subtracted from the anticipated sale price of the development. In Elmbridge, the average plot value for a residential development was assessed to be approximately 39.2% of its OMV<sup>39</sup>. This percentage (39.2%) is applied to the OMV of the proposed development (result of Step 1) to establish the indicative base land value.

Step 3 of 4 – Add 15% of the result of Step 2 to reflect site acquisition and servicing costs

- 4.35 To accurately reflect the cost of going elsewhere and replacing the land on which the affordable housing would have been provided on-site, an additional 15%, as recommended in the Viability Study<sup>40</sup>, is added to the resulting plot value (Step 2) to reflect the costs associated with the acquisition and servicing of an alternative site.

<sup>39</sup> Viability Study, 2009, page 48 – [www.elmbridge.gov.uk/planning/policy](http://www.elmbridge.gov.uk/planning/policy)

<sup>40</sup> Viability Study, 2009, page 48 – [www.elmbridge.gov.uk/planning/policy](http://www.elmbridge.gov.uk/planning/policy)

Step 4 of 4 – Apply the affordable housing policy percentage (i.e. Step 3 x 20%)

- 4.36 In order to calculate the appropriate financial contribution, the affordable housing policy percentage is applied to the result of Step 3, in this case 20%.

### **Affordable housing provision on sites of 5 and more units**

- 4.37 In accordance with Policy CS21, developments of gross number of dwellings of five and more are liable for the on-site provision. The calculation of the policy compliant affordable housing contribution on sites of 5 and more units is carried out using Steps 1 – 4 outlined in paragraph 4.30 with the amended percentage in Step 4. This percentage is replaced with the percentage required by Policy CS21 in accordance with the scale of the development, i.e. for example on sites of 5 dwellings, one on-site unit should be provided; on sites of 6 – 14 dwellings the correct percentage to be applied would be 30%; or 50% to be applied to the development on public land. In some instances, this will result in a combination of the on-site provision and a financial contribution, where the contribution results in a partial unit (please see Table 4 below). The Council's calculation sheet (MS Excel) is available on the website<sup>41</sup>.
- 4.38 National and local policies set out a presumption for affordable housing to be provided on-site. Only in exceptional circumstances will an alternative to on-site provision be acceptable. In such circumstances the onus will be on the applicant to clearly demonstrate that on-site provision would result in insurmountable management or other problems that would compromise viability.
- 4.39 In these instances, the first priority would be to seek provision on an alternative site in the same settlement area as the application site in order to facilitate the creation of sustainable, mixed communities. The affordable housing target will be applied to the combination of both sites to ensure a pro-rata contribution since, in effect, two sites will be developed. The formula to be applied in these circumstances will depend on the number of dwellings to be provided on the original site and the proportion of affordable housing that the policy requires (please see Example B).

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<sup>41</sup> Please see the 'Planning Contributions Charge Sheet – Calculation Tool' at <https://www.elmbridge.gov.uk/planning/developer-contributions/>

**Example B - Calculation of an off-site affordable housing contribution**

- A developer is required to provide 10 units as off-site affordable housing.
- The proposed development on the alternative site is to build 40 residential units. Policy CS21 would require 40% of this to be provided as affordable housing, which equals to 16 units.
- The applicant is therefore required to provide the 10 units as off-site provision plus the 16 units that would have been required under normal policy requirements on the alternative site, 26 units in total.

4.40 In considering off-site provision, an appropriate site should have been identified and either granted planning permission or has been submitted alongside the application for the facilitating site. The Council will seek a legal agreement to deliver the off-site affordable units either at the same time as the facilitating site or within an agreed reasonable time period following completion of the facilitating site.

4.41 In exceptional circumstances where a financial contribution is accepted in lieu of on-site provision this will be equivalent to the proportion that would have been sought on-site.

Table 4 – Provision of affordable housing on sites up to 14 units

Total number of units in the scheme	Percentage of development to be provided as affordable housing	Total affordable housing contribution (number of units)	Total affordable units provided on site	Proportion of units collected as a financial contribution
1	20			0.2
2	20			0.4
3	20			0.6
4	20			0.8
5	20	1	1	0
6	30	1.8	1	0.8
7	30	2.1	2	0.1
8	30	2.4	2	0.4
9	30	2.7	2	0.7
10	30	3	3	0
11	30	3.3	3	0.3
12	30	3.6	3	0.6
13	30	3.9	3	0.9
14	30	4.2	4	0.2

- 4.42 When calculating on-site affordable housing requirements on sites of 15 or more units, the Council will always round up or down to the nearest whole unit/habitable room. For developments of 5-14 units, the affordable housing contribution would comprise the on-site provision with a financial contribution where rounding results in partial units, as set out in Table 4 above. Developers/applicants are welcome to round up and provide an increased number of units on-site instead of a partial financial contribution.
- 4.43 The Council reserves the right to apply the policy using habitable rooms<sup>42</sup>, where this helps to achieve a better mix of dwellings (please see Example C).

**Example C - Calculation of affordable housing contribution using habitable rooms**

- A development is proposed for 30 residential units (flats)
- This is made up of 10 one bedroom flats, 15 two bedroom flats and 5 three bedroom flats
- The number of habitable rooms across the development adds up to 55 bedrooms and 30 living rooms. This totals 85 habitable rooms.
- To meet the 40% affordable housing requirement the development would have to provide 34 habitable rooms as affordable (i.e. 40% of 85) and would be expected to provide a mix in accordance with the identified need set out in the most up-to-date SHMA

## **Transfer prices, management and nominations**

- 4.44 In return for building the affordable housing units on site, a developer/applicant will agree and receive a payment from a Registered Provider (RP) for the affordable units. This will not be equivalent to the full market value of the property but will be at a discounted rate and will vary depending on the tenure of unit provided. Furthermore, the developer/applicant should ensure that these units are designed to the standard set out in paragraphs 4.26 and 4.27 above. This is to ensure that the units are not excessively large, as the RP's payment would reflect only the size of the affordable unit.
- 4.45 To avoid any unnecessary delays during the application process, the applicant/developer should enter into early negotiations with an RP (prior to submission of the application) in order to agree the future transfer of the relevant units, their size, design and price. The name of the committed RP

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<sup>42</sup> Habitable rooms include all rooms normally used for living or sleeping in and kitchens that have a floor area over 13 sqm. Habitable rooms over 20 sqm will be counted as two rooms. Bed sitting rooms will be counted as 1.5 habitable rooms. Small kitchens (13 sqm or less), utility rooms, halls, bathrooms, balconies, toilets, landings and garages are excluded. Any room above the ground floor level with an external window and with a floor area of 6.5 sqm or more capable of future conversion to a bedroom will be counted as a habitable room.

and the agreed transfer price will be included in the legal agreement to be signed prior to determination of the application.

- 4.46 Given the flexibility in charging rent levels, it is recommended that developers and landowners take account of the guidance on rent levels set out in Appendix 5<sup>43</sup> and liaise with RPs prior to submitting any applications, to understand how the rent levels can impact on the price that RPs can offer to either purchase the affordable housing or to enter into a management agreement to run it.
- 4.47 The Council's preference is for the affordable housing to be transferred to a not-for-profit RP and managed as affordable housing in accordance with the guidelines set by Regulator of Social Housing<sup>44</sup>. In certain cases, where an applicant can demonstrate that none of the Council's preferred not-for-profit RPs (or any other not-for-profit RP operating in Elmbridge or neighbouring Boroughs) is willing to take the transfer of the affordable homes on the development site, then the Council will consider a transfer either to a for-profit RP or another body, approved by the Council's Housing Service, including EBC Homes Limited (the Council's wholly-owned housing company). A most up-to-date list of the Council's preferred RPs can be obtained at the pre-application or the application stages from the Council's officers.
- 4.48 The provision of affordable housing will be subject to a Nominations Agreement<sup>45</sup> between the Council and RP (or other such provider).
- 4.49 On any proposed Build to Rent schemes the Council accepts that it may not be appropriate for the affordable private rent element to be transferred to another party (RP or otherwise) and that the management of the scheme may be undertaken by one entity. In such a case, the Council may accept that the affordable housing may be owned and managed by a private organisation or organisations, but will require safeguards as to the quality of the management of the affordable element and will endeavour to enter into a nominations agreement with the managing agent with regards to the selection of tenants for the affordable element (or other measures to ensure that the affordable homes are meeting local identified housing needs).

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<sup>43</sup> Rents set out in the Broad Rental Market Area (South West London and Walton)

<sup>44</sup> <https://www.gov.uk/government/organisations/regulator-of-social-housing>

<sup>45</sup> A copy of the nominations agreement can be obtained from Council's Officers

## **Processing applications supported by viability assessments**

- 4.50 The applicants are expected to consider the overall cost of development, including the required planning obligations and any abnormal costs, prior to negotiating the sale or purchase of land or the acquisition or sale of an option.
- 4.51 When applicants consider that the contribution is disproportionate, the Council requests that the relevant information setting out scheme viability is submitted for independent assessment at the onset of the application.

## **Validation of applications supported by viability assessments**

- 4.52 In the exceptional circumstances where it is considered that the delivery of affordable housing in accordance with the policy is unviable, this must be demonstrated through the submission of a financial appraisal alongside a planning application. The submission of a viability assessment is a local validation requirement<sup>46</sup> for planning applications. Once an application has been registered there will be no further opportunity to contend the viability of the development. If, following the registration of the application, the applicant wishes to dispute the viability, the application will need to be withdrawn and resubmitted.
- 4.53 The Council requires the applicant to pay for an independent review of the submitted viability information. The application will be registered only after the applicant confirms in writing that they would meet the viability review fee. If the payment is subsequently not received, the application will be determined without consideration of the viability information. In such cases, the Council will seek to recover any cost associated with the review of the viability information as part of the appeal process via the application for cost.

## **Publicity of viability assessments**

- 4.54 The Council is committed to addressing the identified affordable housing need. To maintain the transparency and accountability of its decisions, the Council will publish all financial viability appraisals submitted as part of planning applications alongside other planning documents on its website.
- 4.55 If the applicant considers that there are exceptional circumstances for a withdrawal of any information within the viability assessment from a public disclosure, they have to make their case. The submitted justification will be considered in the light of the potential for the information to result in an adverse effect and harm to the public interest, and the reasons why this would not be outweighed by the benefits of disclosure in terms of the Environmental Information Regulations (EIR) and the Freedom of Information Act (FOIA). Such circumstances should be highlighted by the applicant at an early stage

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<sup>46</sup> Please see the Validation Checklist at [elmsbridge.gov.uk/planning/requirements](http://elmsbridge.gov.uk/planning/requirements)

as part of the pre-application process or in advance of registration of the application.

### Consideration of viability

- 4.56 The viability of the schemes will be rigorously tested. The aim of the review is to establish whether a greater compliance with the affordable housing policy than that suggested by the applicant can be achieved taking into consideration any other necessary contributions due and the specific circumstances of the case.
- 4.57 The viability assessment has to be accompanied by a full working viability model (such as Argus Developer) and/or the assumptions and calculations included in the modelling. An executive summary that outlines the key inputs, findings, and conclusions should be provided as part of the assessment. To enable officers to vary assumptions and to test the conclusions, the model must not include any hidden calculations or other assumptions. The assessment should also include detailed evidence in support of the inputs and assumptions. Clarification and additional information might be requested from the applicant during the review process.
- 4.58 To ensure that the submitted information necessary to carry out the viability review is adequate, the applicants should observe guidance set out in the following documents:
- Standardised inputs to viability assessment set out in the Planning Policy Guidance – please see Reference ID: 10-010-20180724 Paragraphs 010 – 020<sup>47</sup>
  - Financial viability in planning: conduct and reporting, RICS (1<sup>st</sup> edition, May 2019)<sup>48</sup>
  - Financial viability in planning, RICS Professional Guidance, England (2012) - Appendix C: Indicative outline of what to include in a viability assessment<sup>49</sup> (or any updated version of this document)
- 4.59 If the Council is satisfied that affordable housing cannot be provided in accordance with the policy, it will seek to negotiate alternative provision. Where on sites of five and more homes a reduced affordable housing contribution is agreed at the application stage, a legal agreement should include the identified potential additional on-site affordable housing units. This is to allow for those units to be converted if necessary, following an early viability review.

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<sup>47</sup> <https://www.gov.uk/guidance/viability#viability-and-decision-taking>

<sup>48</sup> <https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/building-surveying/financial-viability-in-planning-conduct-and-reporting-rics.pdf>

<sup>49</sup> [https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/financial-viability-in-planning-1st\\_edition-rics.pdf](https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/financial-viability-in-planning-1st_edition-rics.pdf)

## **Delivery of affordable housing and viability review mechanisms**

- 4.60 To significantly boost the delivery of housing, including affordable housing, the Council will use the review mechanisms. The aim of these re-appraisal mechanisms is to encourage the development schemes with planning permission to come forward in a timely manner<sup>50</sup> and to secure the maximum public benefit over the period of a development. These mechanisms assist in addressing the economic uncertainties which could arise over the lifetime of the development schemes. The Council requires the applicant to pay for an independent review of the submitted viability information as part of any review mechanism.
- 4.61 For any development providing five and more homes the Council will secure trigger(s) for the review mechanisms through legal agreements to be agreed with applicants prior to grant of permission where deemed appropriate. The Council will use an early review to incentivise the implementation of planning permissions; and a late review taking into account the most robust data available in terms of the achieved sale prices/rental values and evidenced build cost to test whether the level of affordable housing contribution could be increased up to the level, which meets the policy requirement.
- 4.62 The affordable housing requirements are applied where these are necessary to make the development proposal acceptable in planning terms. Therefore, review mechanisms are not to be used to reduce the base level of affordable housing contribution agreed as part of the planning permission. Only in the event of a new or modified planning permission, the previously agreed level of affordable housing contribution could be reconsidered.

### **Early Review Mechanism**

- 4.63 To ensure a timely delivery of the approved schemes, developments which qualify for the affordable housing contribution will be subject to an early review mechanism where deemed appropriate.
- 4.64 A trigger for an early stage viability review would be clearly defined in the legal agreement signed prior to determination of the application. The trigger will require certain level of progress to be made typically within two years of the permission being granted. The timing and the level of progress will be based on the scale and complexity of the development scheme and might for example include a completion of ground works, or of the ground floor level of the building(s). Where the agreed level of development has been achieved within the agreed timescales, the early stage viability review will not be triggered.
- 4.65 Where the agreed progress is not achieved within the specified timescales, an Early Stage Viability Review will be triggered. On development schemes where the review is triggered, the review will take place at the point when the

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<sup>50</sup> In accordance with NPPF paragraph 59

agreed level of progress is achieved, i.e. if the level of progress is achieved after 30 months instead of two years, the review will take place at the point of 30 months after the grant of permission.

- 4.66 The viability assessment will need to contain all information as indicated in paragraphs 4.56 and 4.57 above. If the result of the review confirms that any uplift to the previously agreed affordable housing contribution is viable, this should be accommodated on-site at this early stage. Where an uplift is insufficient to provide additional unit on-site, the surplus should be paid as a commuted sum prior to first occupation of the development.
- 4.67 The cap of the uplift contribution is represented by the policy compliant level of the affordable housing contribution depending on the scale and type of the development.
- 4.68 The Council will use a formula outlined in Appendix 6 to calculate the surplus affordable housing contribution as part of the early review mechanism.

### **Late Review Mechanism**

- 4.69 All major development proposals<sup>51</sup> that do not provide the policy required level of affordable housing contribution at the application stage would be subject to a late review mechanism, which will be secured prior to grant of permission through a legal agreement.
- 4.70 The trigger for a late review mechanism would be at the point in time when 75 percent of homes are sold or otherwise, or otherwise as agreed by the Council. The review has to be carried out prior to disposal of the whole development by the developer to ensure enforceability of the review and of the potential additional affordable housing contribution. It is expected that at this late stage, any identified surplus would be provided in the form of a financial contribution.
- 4.71 The Council will use a formula outlined in Appendix 7 to calculate the surplus affordable housing contribution as part of the late review mechanism.

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<sup>51</sup> 'Major development' as defined by The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

## Vacant building credit

- 4.72 The Government's intention is to encourage a redevelopment of the previously developed land (brownfield land) comprising vacant buildings to enable the regeneration of existing sites rather than developing the greenfield sites. As such, a financial incentive in the form of a Vacant Building Credit (VBC) is set out in the NPPF<sup>52</sup>.
- 4.73 The VBC is a financial credit equivalent to the existing gross floorspace of the relevant vacant building(s) to be brought back into lawful use or demolished and replaced by new building(s). The existing gross floorspace that is calculated in accordance with the GIA definitions<sup>53</sup> will be deducted from the new floorspace and the affordable housing contributions may be required for any increase in floorspace. For example, where a building with a gross floorspace of 7,500 sqm is demolished as part of a proposed development with a gross floorspace of 10,000 sqm, any affordable housing contribution should be a quarter of what would normally be sought.
- 4.74 The VBC does not apply where the vacant building has been abandoned. It was established in courts that in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as the condition of the property; the period of non-use; whether there is an intervening use; and any evidence regarding the owner's intention. This will be determined on a case-by-case basis. Furthermore, based on the intention of this policy, the Council will determine whether the VBC should be applied considering: whether the building has been made vacant for the sole purposes of re-development; and whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development<sup>54</sup>.
- 4.75 The Council will apply the VBC in line with the intention of policy and will ensure that it is not used to simply reduce the affordable housing contribution that is due from the development, as this would affect the Council's ability to meet its objectively assessed need.
- 4.76 The applicant will be required to demonstrate that the building(s) for which the VBC is claimed were not vacated for the sole purpose of redevelopment and had been vacant for a continuous period of five years prior to the submission of the application. Furthermore, evidence confirming that during that time the property was actively marketed for a minimum of two years at realistic prices will need to be submitted.
- 4.77 The applicants should be aware that by claiming the VBC, the Council will not be able to apply the CIL relief.

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<sup>52</sup> NPPF 2019 - Paragraph 63

<sup>53</sup> Please see Appendix 1 - The GIA definitions

<sup>54</sup> PPG paragraphs 026, 027 and 028 Reference ID: 23b-026-20190315

## Spending and monitoring

- 4.78 It is a key priority for the Council to increase the supply of affordable homes in Elmbridge Borough. Affordable housing contributions from small sites have enabled the Council to support the delivery of both new units and ensure the more effective provision of its existing stock and reducing under occupation, a key element of the NPPF.
- 4.79 The collected financial contributions are held in the Council's Affordable Housing Enabling Fund. Table 5 summarises spend from the Enabling Fund and the associated outputs, both in terms of additional affordable housing supply and making better use of the existing housing stock in the eight and a half years between April 2011 and September 2019. It shows that the Fund has directly contributed to the provision of 96 additional affordable homes (through a combination of new-build and acquisitions), whilst also supporting the better use of the existing social housing stock.
- 4.80 In addition to monies already spent, the Council has also committed a further £1,627,000 from the Enabling Fund which is projected to deliver another 20 additional affordable homes, as well continuing to support the Perfect Fit scheme with PA Housing, which helps to make best use of the existing social housing stock.
- 4.81 The Council is actively exploring opportunities with our Registered Providers and others to use the unspent contributions (and other capital held within its Affordable Housing Enabling Fund) to help meet the need for affordable housing within Elmbridge.
- 4.82 Furthermore, at an Elmbridge Borough Council meeting on 21 February 2018, the Council agreed to establish a Council-owned housing company (EBC Homes Ltd) with the aim of building homes to meet the needs of residents. The creation of this housing company opens up new opportunities for affordable housing to be developed in the Borough. EBC Homes Ltd. is initially focusing on developing Council-owned land and acquiring existing street properties.
- 4.83 Examples of the Council's recent work includes:
- 5 affordable homes being provided at Albemarle House in Thames Ditton having secured planning permission in January 2018 to convert the vacant office building to residential use. Works started in July 2018.
  - 5 affordable homes being provided through the redevelopment of Weybridge Hall having secured planning permission in April 2018 to convert the hall to a cinema and the upper floors to residential use. The delivery of the site is expected in late 2020/21.

Table 5: Summary of affordable housing delivery supported by financial contributions secured through Elmbridge Borough Council's planning policies (April 2011 to September 2019)

Scheme	Units delivered / under construction / released	Total spend from Enabling Fund (actuals)	Average contribution per unit from Enabling Fund
Intermediate affordable – acquisitions (Homeownership Assistance Scheme)	47	£1,757,592	£37,396
Rented affordable provision – acquisitions and new-build	44	£4,459,582	£101,354
Sub-total – additional supply	91	£6,217,174	£68,321
Making better use of affordable stock - Perfect Fit under occupation scheme (social rent / affordable rent)	169 households downsized & properties released for re-letting	£514,500	£3,044
<b>Total</b>	<b>260</b>	<b>£6,731,674</b>	<b>£25,891</b>

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## 5. Other Planning Obligations

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- 5.1 In addition to the planning obligations associated with the Thames Basin Heaths SPA and the affordable housing outlined above, in some cases there are other obligations necessary to make the development acceptable in planning terms and these will be secured on a case-by-case basis. Planning obligations could for example relate to specific restrictions on the use of land, occupancy or require further contributions to be made. An example of such an obligation is a financial contribution towards a provision of a car club.

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## 6. Appendices

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Appendix 1 – Examples of CIL calculation and implementation scenarios

Appendix 2 – GIA definitions

Appendix 3 – Statement on affordable housing provision on small sites

Appendix 4 – Calculation of the AH financial contribution for 1 - 4 dwellings

Appendix 5 – Broad Rental Market Area rents

Appendix 6 – Formula to calculate the surplus affordable housing contribution for the early review mechanism

Appendix 7 – Formula to calculate the surplus affordable housing contribution for the late review mechanism