

## Consultation Draft Affordable Housing SPD – Regulation 17 Representation Summaries

Ref. No.	Organisation	Agent	Rep Status	Representation Summary
SPD/AH/L DF/000883 8	Crest Nicholson	Barton Willmore	Oppose	<p><b>1. Compliance with National Policy</b></p> <p>1.1. The SPD must comply with guidance in PPS3 and the accompanying best practice guide on delivering affordable housing. We urge the Council to withdraw the document and review its contents against the requirements of this new Government Policy.</p> <p>1.2. Test 4 set out in paragraph 4.2.4 in PPS12 requires DPDs to be consistent with national policy and Test 9 requires DPD documents to be capable and flexible of accommodating changes in circumstances. These tests are pertinent to the consideration of the merit of the emerging SPD and the SPD fails both.</p> <p><b>2. Prematurity</b></p> <p>2.1. The SPD is intended to supplement and provide further guidance as to the operation of the Council's emerging policies relating to affordable housing, notably Core Policy CPI5 and the Development Control Policy DC33 and DC34. All three policies will be subject to examination and are the subject of outstanding substantive objections. A fundamental change or wording of the policies will render the SPD obsolete.</p> <p>2.2. Given the SPD ought to be parasitic upon core strategy and relevant development control policies we consider its publication now is premature and it should be afforded no weight in the negotiation of affordable housing schemes.</p> <p><b>3. Inclusion of matters outside the role of the planning system and inclusion of matters contrary to PPS3 and Government guidance, which will constrain housing supply.</b></p> <p>3.1 Identification of the role of intermediate housing – paragraph 2.10 of the SPD summarises the findings of the 2004 housing needs survey update. The commentary appears not to review the role of intermediate housing in enabling existing social rented/Council tenants to staircase and move out from rented accommodation thus provide further rented accommodation.</p>

				<p>3.2 Sub regional Housing Market Assessments and Borough-wide Housing Market Assessments – at paragraph 2.12 the Council set out there intention to undertake sub-regional market assessments and Borough-wide housing market assessments at a future date. We would suggest that these should be carried out as part of the emerging core strategy evidence base. On this basis the publication of the SPD is premature.</p> <p>3.3 Percentages &amp; Thresholds –</p> <ul style="list-style-type: none"> <li>• At paragraph 3.3 the Council has set its intention to ‘round up’ the provision of affordable housing to secure the 35%, whilst it is a small point it appears to us that where provision would relate to for example 12.1 units it should be rounded down but where it is 12.9 units, it should be rounded up.</li> </ul> <p>3.1 Whilst the Council has set out in paragraph 3.3 that they are willing to consider gross residential floorspace, we have also found a useful assessment tool is habitable rooms, especially where local authorities wish to seek a high level of family accommodation as opposed to the predominant form of accommodation provided in the scheme itself.</p> <p>3.2 Affordable housing thresholds and requirements – at paragraph 3.4 the Council appear to be inferring that where separate windfall sites come forward independently under separate ownership they will seek to co-join those sites for the purposes of identifying the affordable housing need. This is wholly unjustified and unworkable. Whilst the Council can correctly seek to resist the artificial sub-division of sites to avoid affordable housing and indeed the artificial reduction in capacity to seek to argue that separate sites separate under ownership, where not physically joined or located, should be taken to require affordable housing by way of in-combination assessment, is wholly unworkable and will actually result in reduction in windfall rates. The policy is unenforceable and in our view will lead to a number of appeals.</p> <p>3.3 Tenure Split – at paragraph 3.7 the Council argue that they will require that the majority of affordable housing provision to be socially rented. Whilst this may be a Borough-wide target in regard to the housing needs survey update, the actual percentage and split on each individual scheme should reflect a number of factors including scheme viability, the prevailing tenure in the locality, the need to provide for a mixed and balanced community, scheme design and RSL requirements.</p>
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				<p>3.4 Definition of Affordable Housing – paragraphs 3.8 and 3.19 should be withdrawn and be replaced with the definitions as set out in the Government’s Delivery of Affordable Housing best practice guidance note at paragraph 30 to 41 of Annex B.</p> <p>3.5 Summary of planning obligations scope - The resistance of the Council to staircase to 100% of equity of ownership is contrary to Government policy as set out in the ‘Delivery of Affordable Housing’ best practice note. Likewise, in our view the eligibility and allocation restrictions are contrary to Housing Corporation rules, as it the requirement to limit recycling of disposable proceeds to within the Borough of Chelmsford. We do not believe the Council have demonstrated or justified an exception to Government policy.</p> <p>3.6 Viability appraisal – At paragraph 3.9 the Council set out its intention that only where justified on an ‘open book’ basis that a scheme is not financially viable to meet the cost of affordable housing, will the Council consider a lower level of provision. The document is silent on the use of cascade mechanisms to address the issue of grant of availability as suggested by Government guidance. ‘Open book’ itself is not an appropriate term and a more beneficial route is the independent financial appraisal by an appropriate assessor.</p> <p>3.7 The SPD identifies physical constraints as being the only issue which will be taken into account. However there re a range of factors that need to be considered including alternative use value, scheme design and construction, availability to grant and tenure, provision of other planning benefits and provision of other land uses as required by policy.</p> <p>3.8 Affordability – with regard to affordability the document should be withdrawn and re-cast to reflect advice in Government guidance as set out above regarding the adherence to target rents. We do not believe that it is for the Council to set individual rents below those set by the Housing Corporation under the funding regimes.</p> <p>3.9 Split of affordability – at paragraph 3.19 the Council set out a detailed mechanism for providing for a range of costs within Bands 1, 2 and 3 as identified in Annex 3. We believe the affordability criteria in terms of rent and costs should be tied to a target rent and affordability criteria used by the Housing Corporation. We understand the Housing Corporation will determine whether the scheme is affordable in delivering and whether grant should be awarded. The provisions of paragraph 3.19 should therefore be deleted.</p>
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				3.10 S106 agreement – the s106 agreement is an agreement between the Council and the developer with or without RSL participation. The definitions set out in the draft s106 should reflect that set out in Government guidance and its content should be reviewed to reflect our comments above.
SPD/AH/L DF/008557	Persimmon Homes (Essex) Ltd & Taylor Woodrow Developments	Pegasus Planning Group	Comment	<ol style="list-style-type: none"> <li>1. Paragraph 3.18 states that the information in Appendix 2 and 3 will be updated on an annual basis at the start of the financial year to reflect changes in the market and information provided by housing associations regarding new lets in the Borough. It is considered that this updated information should be audited by an impartial third party as housing associations have a vested interest.</li> <li>2. It is considered that the Housing Needs Survey undertaken in 2004 is out-of-date and that more up-to-date data base is required.</li> <li>3. It is considered that the definition of Affordable Housing needs greater clarity and should include the following categories: <ul style="list-style-type: none"> <li>• Social Rented</li> <li>• Shared equity</li> <li>• Key worker</li> <li>• Low Cost Market</li> </ul> </li> <li>4. It would appear that social rented levels are excessive (71%) when the analysis detailed in 2.10 shows that 33% of those in need could afford intermediate housing.</li> <li>5. Part i of Policy DC33 states that housing needs surveys and assessments will be updated from time to time. It is considered too imprecise to carry out updates from 'time to time'. Updates should be carried out frequently and regular intervals.</li> <li>6. Paragraph 4.1 states that the Borough Council will conduct a financial appraisal to assess the extent to which the existing physical constraints on a site result in extraordinary costs. It is considered that an independent arbitrator should be appointed to assess any such financial appraisal.</li> <li>7. It is considered that the Key Worker Housing Study undertaken in 2004 is out-of-date and that a more up-to-date survey is required. The suggested lack of provision for affordable key worker accommodation is also unduly restrictive.</li> </ol>

				<p>8. Paragraph 3.28 states that the Borough Council does not accept that standards applying to gardens and balconies, public and private amenity space and car parking should be any less for affordable housing provision. This statement is disputed – it is considered that car parking and garden standards for affordable housing may be less than for market housing. This is because purchasers of market houses pay for garages and larger gardens above the acceptable minimum standards.</p> <p>9. Paragraph 3.24 – The pepper-potting of affordable housing is supported however consideration should be given to management practicalities.</p> <p>10. Paragraph 3.23 – It is considered that if there are exceptional costs involved in the delivery of a site then these should be taken into account.</p>
SPD/AH/L DF/000868 8	Ian Leete Chelmsford Environment Consultative Group		Comment	<p>1. In implementing Affordable Housing requirements, the Borough should consider the need for real family dwelling, that is to say, the need for 3 or 4 bedrooms plus adequate living space.</p> <p>2. The policy should be amended to incorporate the provisions of the new PPS3 recently issued by the Government.</p> <p>3. The Group would like to congratulate the Council on their recent affordable housing developments in East Hanningfield and Thaxted. The Group considers these a positive example to follow.</p>
SPD/AH/L DF/000268 5	Essex County Cricket Club	CRUSHMAN & WAKEFIELD	Oppose	<p>1. The Affordable Housing SPD was produced prior to the publication by DLCCG of PPS3 and other advice. It does not, therefore, properly reflect the latest National Guidance on this issue and the whole of the document requires review and amendment to ensure consistency with National Guidance. As a result, the whole document should be subject to further consultation in its amended form prior to adoption.</p> <p>2. Paras. 2.7 – 2.12 - The SPD is clearly based upon out of date information in the 2004 Housing Needs Survey update, and needs to take into account the requirement of PPS3 to undertake Housing Market Assessment. The SPD therefore fails to take into account the Housing Market, and should be comprehensively reviewed and revised in the context of PPS3, Delivering Affordable Housing, and other more recent Government guidance.</p>

				<ol style="list-style-type: none"> <li>3. Para. 3.8 - The definition of Affordable Housing adopted by the Borough Council is not consistent with the revised definition contained in Appendix B to PPS3. In particular, the third bullet point does not appear in the National Definition of Affordable Housing and should be removed.</li> <li>4. Para. 3.14 - The limitation on staircasing to 80% is inappropriate, and likely to limit the ability of developers to finance intermediate housing. There is no support for this limitation in Government Guidance, and Annex B of Delivering Affordable Housing at para. 40 indicates that, whilst the purchasers may staircase out, there should be secure arrangements for subsidy to be recycled. The limitation on staircasing to 80% should therefore be removed.</li> <li>5. Para 3.24 - The requirement that on all sites affordable housing be distributed across the whole site rather than provided in one single parcel should not apply to developments below 30 units as distribution across the site on small schemes is not generally acceptable to RSL's. The table which sets out various categories of scheme size is unclear and does not properly explain the application of the Council's Policy in respect of sites incorporating 30 or more residential units as is claimed.</li> <li>6. Para. 3.27 - It is not appropriate for the Borough Council to require a similar dwelling mix in the private and affordable elements of a scheme. In the interests of securing mixed and balanced communities, it may well be the case that dwelling mix in the private and affordable elements will need to complement one another, and thus be different. This restriction should also be removed.</li> <li>7. Whilst the use of a Standard Financial Appraisal to evaluate circumstances in which it may not be possible to meet the Council's Affordable Housing requirements is generally accepted these two paragraphs appear to contradict one another at present. If the Council conducts the Financial Appraisal using a standard toolkit, there should be no need for the developer to undertake a similar exercise. It is suggested that this section be redrafted to indicate that, where an applicant considers that the planning obligations significantly affects development viability, the Council will work with the developer, using the Three Dragons toolkit or similar, to agree the parameters for the Financial Appraisal, using outside consultants if necessary.</li> </ol>
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SPD/AH/L DF/000879 4	Redrow Homes (Eastern) LTD	CgMs LTD	Oppose	<p>1. Specific requirements are imposed in terms of the quantum of social rented and intermediate housing on individual sites. Para. 3.9 states that the Council will expect affordable housing to include at least 25% of the total number of dwellings as social rented accommodation and the balance to be intermediate. Par. 3.16 takes this even further in relation to intermediate housing and specifies the provision of set percentages in three ‘price’ bands as set out in Appendix 3. Redrow object to both para.s 3.9 and 3.16 to 3.19 on the basis that they are over prescriptive and go beyond the policy aims set down by the East of England Plan and PPS3 which advise Council’s to set targets. Indeed the over prescriptive nature of these policies could lead to frustration in the supply of affordable housing contrary to the overall aim of the SPD, which seeks to facilitate the supply of affordable housing. Redrow recommends paras. 3.9 and 3.16 to 3.19 are deleted and replaced by a target for social rented and intermediate forms of affordable housing. Also of relevance is the Government Policy Statement “Delivering Affordable Housing”, which was released at the same time as PPS3.</p> <p>2. The Council’s guidance should recognize that the provision of all the affordable housing provision on an individual site as intermediate housing will meet the identified need.</p> <p>3. Paras, 30 – 32 of Annex B provide definitions of Affordable Housing, Social Rented and Intermediate Housing. It is therefore considered appropriate to replace paragraph 3.8 with the definition provided by recent national guidance. Para.3.8 should be deleted and replaced with the definitions stated at paragraphs 30 – 32 of Annex B of Policy Statement ‘Delivering Affordable Housing’. In particular the intermediate housing definition should make reference to ‘shared equity’ (e.g. Homebuy) and other low cost homes for sale, and ‘intermediate rent.’ Other forms of low cost housing including Housing for First Time Buyers.</p>

SPD/AH/L DF/000888 8	Bellway Homes	CRUSHMAN & WAKEFIELD	Oppose	<ol style="list-style-type: none"> <li data-bbox="976 134 2018 328">1. The Affordable Housing SPD was produced prior to the publication by DLGG of PPS3 and other advice. It does not, therefore, properly reflect the latest National Guidance on this issue and the whole of the document requires review and amendment to ensure consistency with National Guidance. As a result, the whole document should be subject to further consultation in its amended form prior to adoption.</li> <li data-bbox="976 368 2018 563">2. Paras. 2.7 – 2.12 - The SPD is clearly based upon out of date information in the 2004 Housing Needs Survey update, and needs to take into account the requirement of PPS3 to undertake Housing Market Assessment. The SPD therefore fails to take into account the totality of the Housing Market, and should be comprehensively reviewed and revised in the context of PPS3, Delivering Affordable Housing, and other more recent Government guidance.</li> <li data-bbox="976 603 2018 734">3. Para. 3.8 - The definition of Affordable Housing adopted by the Borough Council is not consistent with the revised definition contained in Appendix B to PPS3. In particular, the third bullet point does not appear in the National Definition of Affordable Housing and should be removed.</li> <li data-bbox="976 774 2018 968">4. Para. 3.14 - The limitation on staircasing to 80% is inappropriate, and likely to limit the ability of developers to finance intermediate housing. There is no support for this limitation in Government Guidance, and Annex B of Delivering Affordable Housing at para. 40 indicates that, whilst the purchasers may staircase out, there should be secure arrangements for subsidy to be recycled. The limitation on staircasing to 80% should therefore be removed.</li> <li data-bbox="976 1008 2018 1139">5. Paras. 3.15 – 3.17 – the controls envisaged on Intermediate Housing in these paragraphs are unduly prescriptive and unjustified, and likely to inhibit the provision of Intermediate Housing by developers. This applies particularly to the rigid thresholds set out in para.3.16 which are not justified in the SPD or elsewhere.</li> <li data-bbox="976 1179 2018 1358">6. Para 3.24 - The requirement that on all sites affordable housing be distributed across the whole site rather than provided in one single parcel should not apply to developments below 30 units as distribution across the site on small schemes is not generally acceptable to RSL's. The table which sets out various categories of scheme size is unclear and does not properly explain the application of the Council's Policy in respect of sites incorporating 30 or more residential units as is claimed.</li> </ol>
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				<p>7. Whilst the use of a Standard Financial Appraisal to evaluate circumstances in which it may not be possible to meet the Council's Affordable Housing requirements is generally accepted these two paragraphs appear to contradict one another at present. If the Council conducts the Financial Appraisal using a standard toolkit, there should be no need for the developer to undertake a similar exercise. It is suggested that this section be redrafted to indicate that, where an applicant considers that the planning obligations significantly affects development viability, the Council will work with the developer, using the Three Dragons toolkit or similar, to agree the parameters for the Financial Appraisal, using outside consultants if necessary.</p> <p>8. Appendix 1 – Clause 3 appears to indicate that the Borough Council will be seeking to limit the service charge on affordable housing. This is not discussed in the body of the document, and could result in residents of private market housing subsidizing the service charge of occupiers of affordable housing. This would be inequitable, unjustified and unsustainable in the long term.</p>
<p>SPD/AH/L DF/000888</p>	<p>Government Office for the East of England</p>		<p>Comment</p>	<p>1. Paragraph 2.1 of the SPD states that the national policy context is set out in Draft Planning Policy Statement 3 (PPS3), and includes a reference to paragraph 1 of PPS3 in relation to the Government's key objective for planning for housing. Following the publication of PPS3 this reference will need to be updated, and any specific references to sections within the document checked to ensure they are still correct.</p> <p>2. Policy DC33, as set out in paragraph 2.6 states that 'The Borough Council will require the provision of 35% of the total number of residential units to be provided and maintained as affordable housing.....'. However, the second sentence of paragraph 3.2 states 'Therefore, the policy requires at least 35% affordable housing provision on suitable new residential sites'. The inclusion of the term 'at least' in paragraph 3.2, in referring to the percentage of housing provision, does not clearly reflect the actual wording of Policy DC33 in that it suggests that 35% is a minimum, and as such represents a change to the Policy. When Policy DC33 is finalized following testing at examination of the Core Strategy DPD, the authority will need to ensure that the reference in paragraph 3.2 is consistent with the policy.</p> <p>3. Paragraph 3.2 states that 'The 35% requirement may only be reduced where it is demonstrated that existing physical constraints on the site result in extraordinary costs which the development could not reasonably be expected to bear.' The Government Office suggests that this statement should be expanded to explain in greater detail what is meant by 'extraordinary costs' and include examples if possible,</p>

				<p>in order to provide greater certainty about what matters will be taken into consideration.</p> <ol style="list-style-type: none"> <li>4. Paragraph 3.4 states ‘In circumstances where a site falls below the site/size thresholds, and it is reasonable to consider its development in the context of other sites which are adjacent or in close proximity....’ The Government Office suggests that the paragraph could be expanded to include an explanation of the term ‘close proximity’ and set out criteria which will be used to determine whether individual sites will be aggregated for the purpose of calculating affordable housing provision.</li> <li>5. Para. 3.20 states ‘Off-site provision or the payment of a commuted sum will only be acceptable in exceptional circumstances...’ The Government Office suggests that the paragraph needs to be expanded to include an explanation of what is meant by the term ‘exceptional circumstances’ and set out the criteria which the authority intends to use to determine those circumstances.</li> <li>6. Paragraph 3.26 states ‘Developments that locate the affordable housing in the poorest or more undesirable parts of a site will be resisted’. The Government Office suggests that the paragraph needs to be expanded to include the criteria which the authority will use to assess sites to determine which parts are poorer and/or more undesirable e.g. accessibility, amenity etc. Consideration should also be given to reframing this paragraph in a more positive way e.g. setting out the locational criteria that should be met in providing affordable housing provision.</li> <li>7. Paragraph 3.14 – we would draw your attention to the recent announcement by the Parliamentary Under Secretary of State, Baroness Andrews. This statement set out that the percentage that can be staircased is increased to 100%, except in relation to rural exception sites where it can be restricted to 80%. It may not be possible for the Authority to seek covenants to restrict the ability to staircase to 80%. The Authority needs to satisfy itself that limiting staircasing to 80% in some circumstances is appropriate relative to legal considerations and in relation to national policy.</li> <li>8. Appendix 4 – In setting out the Key Provisions for Affordable Rural Housing Legal Agreements the first bullet point of Appendix 4 includes that requirement that ‘...the details of legal covenants and the management and financial arrangements which are proposed to ensure that the housing is provided initially within a reasonable timescale. This appears to be potentially inconsistent with period of time given to implement a development following grant of planning permission i.e. 3 years. The Government Office questions whether it is appropriate to impose timetables for</li> </ol>
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				development when it is the extent of planning permission which gives the legal timeframe. The authority should take the relevant steps to satisfy itself that the approach being taken is acceptable in legal terms.
SPD/AH/L DF/000376 7	Countryside Properties PLC	Andrew Martin Associates		<p>1. Para 2.1 – The overarching point is that the SPD should now be aligned with PPS3. The document should therefore be fundamentally revised bearing in mind that the final PPS3 was published on 29<sup>th</sup> November 06, following publication of the SPD. Specific points from PPS3 are:</p> <ul style="list-style-type: none"> <li>• Regional approaches and regional targets (subject to the region-wide figure of 35% - and this is not a minimum – the SPD should state clear support for a range of affordable housing products)</li> <li>• Plan-wide and separate intermediate/rental targets for numbers to be provided</li> <li>• A new and clear definition of affordable housing (a particular point is that Low Cost for Sale falls within the definition of affordable housing)</li> <li>• Informed assessments of likely level of finance</li> </ul> <p>2. Para 2.3 – Proposed changes to RSS14 are expected to be published 19<sup>th</sup> December 06. Where regional policy is not yet fixed, it would be prudent to withhold substantial progress on the SPD pending the final outcome of the RSS14 process.</p> <p>3. Para 2.10 – there is continuing inconsistency in that the 2004 survey acknowledges 33% requirement for intermediate housing and yet this is not recognized at the level of policy, which continues to assert rental housing as a priority. If the authority acknowledge a 70:30 split they still reserve their position to argue that intermediate housing requirements can be ignored. This is evident at Shardelow Avenue. The application of policy is often attuned to perceived priority rather than strict interpretation. The policy purports to be clear; its application can frustrate provision.</p> <p>4. What is meant by “in reaching its decision on development proposals”? Are they meaning the determination of applications, or simply considering housing mix?</p> <p>5. Para 2.13 – This SPD appears to confuse on a number of matters here. There should be an obvious reference to Core Strategy policy CP4 if only for the purpose of consistency. It is not clear what is meant by “contributions required for affordable housing”; is this financial or physical contributions? On balance it is helpful that the Council recognize affordable housing being a negotiated element.</p>

				<p>6. Para 2.15 – this is generally satisfactory save for reference to maintenance and management which suggests that a separate body would have to be party to the Section 106 agreement.</p> <p>7. Para 2.16 (see also para 3.26) - The terminology is incorrect as there is no such thing as a detailed application, only approval of reserved matters. Not all outline applications can anticipate a level of detail and in the case of larger master planned schemes it will be for design briefs or design codes to be seen as the appropriate design instrument. The reference to obligations being “framed” suggests that matters will be imposed rather than agreed. This tests the definition of the word “obligation” in what is otherwise an agreement. At para 3.26 there is reference to value judgments and it is not always feasible to incorporate affordable housing in all locations. Developers are not going to invite a reason for refusal, but equally LPAs should recognize that the provision of affordable housing has to be carefully considered and balanced with other factors, bearing in mind a range of property, planning and phasing issues.</p> <p>8. Para 3.2 – There is a need to deal with CP4 again here. The relaxation of the 35% rule is possible where physical constraints kick in. The situation is that CP4 anticipates other strategic or extraordinary costs, not just physical matters.</p> <p>9. Para 3.7 – Sites such as Shardelow Avenue have been seen by CBC as being purely rented accommodation. Strictly speaking their current policy would encourage 70% rental / 30% intermediate. They have been very slow to accept that the mix of affordable housing should not be based on the site per se – and particularly where it is part of a larger community – but on the basis of an assessment of total provision in the area.</p> <p>10. Para 3.8 – 3.20 – need to reconcile this with PPS3.</p> <p>11. Para 4.1 – This provides a certain degree of flexibility in the light of other extraordinary costs. However, the extent of financial examination is only as good as the assumptions made. It is considered that not all situations lend themselves readily to examination, nor will the right levels of information be available.</p>
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## APPENDIX 1

SPD/AH/L DF/900103 3	Natural England		Comment	The content of the draft affordable housing SPD only affects Natural England's areas of responsibility in relatively indirect and minor ways. The comments given below are therefore confined to the remaining two SPDs.
SPD/AH/L DF/000295 3	McCarthy and Stone (Developments) Ltd	Levvel Ltd	Comment	<p>I. We would expect the Council to re-draft the document in light of PPS3 where necessary such that it can meet test iv of PPS12 tests of soundness. The Issues and Options policy does not conform to PPS3 in the following ways:</p> <ul style="list-style-type: none"> <li>• The issues and options have been formulated without the aid of an up to date housing needs survey and as such are based on out of date information which cannot be deemed robust and credible.</li> <li>• The housing needs survey, although it may demonstrate a perceived need for additional affordable housing, it is only one in a series of documents, which should go together to form the evidence base. The findings of the HNS should not be used to derive policy in isolation, but should be used to inform the formulation of policy alongside land supply, economics of provision, and availability of funding and the impact of policy on the delivery of housing to meet the housing needs of the wider community in the preparation of affordable housing. There is no evidence within the SPD that consideration has been given to a full housing market assessment undertaken in accordance with a standard methodology involving stakeholders, a detailed analysis of housing supply, urban capacity study, an assessment of grant availability of grant funding, an assessment as to whether existing communities are mixed and balanced and consideration of viability to include anticipated wider planning gain costs and particular site costs. There is therefore no evidence to suggest that the requirements of the plan are deliverable.</li> <li>• This view is supported in “Delivering Affordable Housing Through the Planning System” which recognises that, “The links between housing needs surveys and plan policy on affordable housing are far from straight forward and involve wider political and resource judgments than simple assessment of need.</li> <li>• The creation of District wide policy on housing informed solely by the current survey of housing need (when published) lacks awareness of the local and regional housing market and fails to ensure that recommendations are deliverable.</li> <li>• Whilst we accept that the SPD conforms to its parent Local Plan and SPG on Section 106 Planning Agreements in terms of quantum, we are concerned that the SPD does not contain the necessary flexibility as it is partly based on the 2002 Housing Needs</li> </ul>

				<p>Survey and partly on the 2004 update.</p> <ul style="list-style-type: none"> <li>• In order to meet the tests of soundness (specifically test ii) it is essential to submit the revised draft to a further period of consultation.</li> <li>• Whilst we accept that the Core Strategy may introduce changes to policy until it is adopted we are concerned that the SPD is pre-empting policy and question whether its introduction would actually bring about an increased supply and cost of affordable of affordable housing development in the Local Authority's area.</li> <li>• Whilst PPS12 makes provision for SPD to be progressed where necessary in tandem with the parent DPD, it is our view that this should only be applied in order to fill a gap in policy.</li> <li>• SPD must conform to the saved Local Plan/parent DPD The Council has identified that Local Plan Policies HO2: Affordable Housing is to be saved. These policies suggest certain criteria for assessing development sites and their suitability for the provision of affordable housing in terms of percentage, thresholds, economic considerations, etc which would appear to be modified through the proposals contained in the Draft SPD. We are concerned that the Council is attempting to introduce new guidance without sufficient evidence in place and without going through the appropriate LDF process.</li> <li>• To take the approach promulgated in the Draft SPD of altering the percentage for affordable housing sought, the thresholds set for qualifying sites and the impact that affordable housing policy will have on land value without going through the scrutiny of independent inspection associated with the production of DPD is premature and not in keeping with the spirit of the LDF process and as such will leave the authority open to challenge on a number of sites.</li> <li>• Whilst we are aware that PPS3 advocates the use of tenure splits in policy it is our contention that this should be deferred to a further DPD when the evidence base in place.</li> <li>• It is recommended that reference to a rigid tenure be removed and replaced with an acknowledgement that there are a number of affordable housing products which will be suitable for various households.</li> </ul>
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				<ul style="list-style-type: none"> <li>• Recognition should also be included that site specifics will be discussed at the planning application stage having regard to identified local need and supply and the economics of provision.</li> <li>• No mechanisms are demonstrated within the SPD for the implementation and monitoring of the delivery of affordable and market housing arising from the application of the SPD and would therefore be considered to fail the test of soundness. The Council should be proactive in carrying out a much higher standard of monitoring. It should monitor all the affordable housing provided on market sites in the district under terms of policy. It should record as a minimum:             <ul style="list-style-type: none"> <li>• The total development size;</li> <li>• The size, type, number and tenure of the affordable housing units;</li> <li>• The assumptions underlying the intermediate units (percentage equity sold, ret level)</li> <li>• The amount of public subsidy allocated to or received by the affordable units involved;</li> <li>• The reason for any deviation from the policy (high alternative use value/grant not available/other planning priorities/high remediation costs etc)</li> </ul> </li> </ul> <p>It would be helpful if all this information could be recorded both at the point planning permission is granted and at the point of completion as the terms of the permission and the development actually built out are not always identical. This monitoring data should be kept in real time rather than annually and should be publicly available.</p> <ol style="list-style-type: none"> <li>2. By delaying production of the SPD until the Core Strategy is adopted, the Council would ensure that an SPD could be produced which is flexible enough to deal with changes to the Core Strategy which may come about as part of the inquiry process.</li> <li>3. The SPD would benefit from formally defining the circumstances where an off site provision or financial contribution would be applicable e.g. requiring a sheltered housing unit scheme/elderly accommodation to make an on-site provision of affordable housing may proved difficult in design and in terms of functionality, however this list cannot be exhaustive. Paragraph 3.21 of the SPD should be re-phrased to: Exceptionally, where the Borough Council accepts that on-site provision is not possible or where a better outcome is agreed to be acceptable off-site, it may consider the use of off site provision or commuted sum.</li> </ol>
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				<p>4. Circular 05/05 states that developer contributions should be fairly and reasonably related in scale and kind to the development proposed, the principle of ‘equivalence’. It is our contention that the provision of a commuted sum should therefore be based on the transfer of land for affordable housing. The developer subsidy should be the equivalent whether provision is made on or off-site, or by way of a commuted sum. We object to the calculation of commuted sum as being the difference between the market value of the number and type of properties that would otherwise have been provided on the site which an RSL would be able to pay for them. This represents additionality in that it is a larger requirement than that for on-site provision. A fairer method would be the residual land value approach. In order to provide certainty the following formula should be included: Commuted sum = Open Market Land Value Price Minus Affordable Housing Land Price.</p> <p>5. It is our contention that the principle of free land being the maximum developer subsidy should be included in the SPD.</p> <p>6. In para. 3.9 the Council states that affordable housing will be provided without recourse to public subsidy and that only when it has been verified through open book appraisal that the development is not viable without it can a realistic assumption on the availability of public subsidy be taken into account. Although the Council may give assurances to the developer that this information will be kept secure if the application was to go to appeal the information would no longer be held securely as this process requires examination in the public realm.</p> <p>7. If the open book appraisal system were secure, developers would have no way of ensuring that the criteria used to assess their application was being applied in the same way to others, the only way to provide for this is to make the system and process transparent, which will unfortunately open up commercially sensitive information to developers competitors.</p> <p>8. The Council should remove references to open book appraisals and carry out a series of appraisals of typical sites using benchmark figures. Where exceptional circumstances require a viability exercise to be carried out on a particular site in order to determine whether it can deliver Affordable Housing, the appraisal should be based on generic values (e.g. BCIS) in order to protect commercially sensitive data and to ensure that the permission is attached to the land not the developer.</p>
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				<p>9. The Council has stated its preference that affordable housing units are fully dispersed through out the site. This should be caveated with recognition that some types of development, such as flatted developments, are not suitable for this type of provision due to the differentiation of service charges and management between open market units and affordable units. In such instances it may be more appropriate to seek provision in separate block or off-site through the provision of units or a commuted sum.</p>
SPD/AH/LDF/0000083	Councillor Bill Horslen Chelmsford Labour Group/Party		Comments	<p>1. I find this consultation draft a useful document and one that seems to cover most of the important aspects of achieving affordable housing in the borough. I have read it very carefully and I have been unable to find any policy issue that could be improved, except by improving the 35% to 40% and by reducing the site specifics triggering affordable housing contributions, but I do have a couple of points that I would like to bring to your attention:</p> <p>2. Para 3.8 – “The Borough Council does not accept that standards applying to gardens and balconies, public and private amenity space and car parking, <b>including garages</b>, should be any less for affordable housing;</p> <p>3. Para 3.37 “The Borough Council will expect the analysis to be conducted on the basis of households currently in housing need and households that expect to be in housing <b>need</b> in the next five years.</p>
SPD/AH/LDF/003925	Great Waltham Parish Council		Comment	The Parish Council feels that no comment is required on this document.
SPD/AH/LDF/0008816	Network Rail		Comment	We support the part of the policy DC33: The Provision of Affordable Housing where it states that where there are extra-ordinary site development costs consideration will be given to a reduction in the level of affordable housing to be provided.
SPD/AH/LDF/0008816	Network Rail		Comment	We object to the second paragraph of Policy DC33: The Provision of Affordable Housing and would request that it be deleted from Policy DC33. This paragraph states that for sites under the 15 unit threshold, consideration be given to aggregating it, and surrounding sites, to determine the affordable housing provision. We strongly object to the inclusion of this part of the policy. Similar strategies exist in other local authority areas, however they relate only to land in the same ownership – and not to sites which may be in different ownership. It is unreasonable to factor windfalls into the ambit of this policy. Windfall, or likely windfall sites, would need to be included as allocated sites if this

				policy were to be equitable and effective, as windfall sites by their very nature are not necessarily known at any given time. In terms of distribution there is also no certainty about the density of development that may come forward on any site not allocated – which would make predicting the distribution of affordable housing over a group of sites very difficult.
SPD/AH/L DF/000892 4	Pelham Homes	Douglas Birt Consulting	Oppose	<p>Paragraph 2.2 The definition of intermediate housing needs to specify that it includes shared equity products, low cost homes for sale and intermediate rent as contained within Planning Policy Statement 3 Housing, Annex B: Definitions.</p> <p>Policy DC33 i) Whilst it is appropriate for the Housing Needs Survey to inform the level and tenure mix of affordable housing, it is essential to base this upon “current and future levels of need and demand for housing and affordability levels based upon...other market information such as long term house prices”, as made clear in PPS, paragraph 33. The current HNS is based on interviews originally conducted in 2002 and updated at the start of 2004.</p> <p>Areas of identified need in the HNS are very difficult to accurately predict (e.g. newly forming households, as well as projected need created by existing households falling into need and in-migration of households) The scale of this need is questioned, as it skews apparent demand towards those seeking social rented housing. Meanwhile, since the 2004 update, property prices have increased by nearly 25%, whilst incomes of key workers and others on modest incomes have risen by only c.5% in the same period. Many such working households will now require intermediate housing. Whilst it is not questioned that 35% affordable housing should be sought on qualifying sites in Chelmsford, it is contended that the HNS is both flawed and out of date. More realistically, the current tenure mix should be more in favour of intermediate housing. This part of the policy needs to be reworded to take account of the above issues with the HNS.</p>
SPD/AH/L DF/000892 4	Pelham Homes	Douglas Birt Consulting	Oppose	Policy DC 33iv). It is not necessary to include this within this Policy, as it is an accepted part of planning policy.
SPD/AH/L DF/000892 4	Pelham Homes	Douglas Birt Consulting	Oppose	<ol style="list-style-type: none"> <li>1. Para 3.9 – The HNS needs to be accurate and up to date before it can properly contribute to helping set levels and tenure mixes of affordable housing.</li> <li>2. It is not appropriate to assume that affordable housing “will be provided without recourse to public subsidy.” PPS3 states that councils should consider the “economic viability of land for housing...drawing on informed assessments of the likely levels of</li> </ol>

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				finance available for affordable housing including public subsidy....” (para 29) Further, PPS3 refers to the Government’s ‘Delivering Affordable Housing Policy Statement. This makes clear that “Effective use of planning obligations to deliver affordable housing requires....site viability, ‘cascade’ agreements in case grant is not provided.....” (para 10). Paragraph 3.9 of the Affordable Housing SPG should be linked into Section 4 and be reworded to make clear that the viability of the scheme and not just the affordable housing element should be reviewed through the use of a financial appraisal, with grant funding of affordable housing comprising one input to that appraisal. The role of the cascade agreement should also be made explicit in this paragraph to protect long term schemes that may fall outside of the Housing Corporations 2-3 year funding cycle.
SPD/AH/LDF/000892 4	Pelham Homes	Douglas Birt Consulting	Oppose	<ol style="list-style-type: none"> <li>1. The Maximum Price should only be restricted to 80% of open market value if the initial purchaser agrees to sell-on for this price. If after a period of three months the seller is unable to sell to someone at 80% of OMV, they should be able to sell to whoever they can find. This will be essential for RSLs seeking private finance for schemes in Chelmsford. This process is the most appropriate mechanism to deliver affordable homebuy and other low cost housing products for successive occupiers.</li> <li>2. Table 1 and Table 2 are not appropriate, firstly because the tables do not take account of prevailing housing prices and secondly because service charges have to relate to the services provided and cannot be subsidized (according to the Landlord and Tenant Act). These tables therefore serve no useful purpose.</li> <li>3. Likewise the bandings in Appendices 2 and 3 are irrelevant as purchase relates to house prices and income levels.</li> </ol>
SPD/AH/LDF/00038 7	Home Builders Federation		Comment	<ol style="list-style-type: none"> <li>1. The Council will now need to take on board the full implications and relevant content of PPS3 and Delivering Affordable Housing (November 2006)</li> <li>2. The policy should be backed up by an up to date evidence base that would justify the affordable housing figures being sought. A Strategic Housing Market Assessment must be undertaken to look at the need for all forms of housing (not just social rented) and be carried out in the appropriate manner in full consideration with local landowner, developers and other interested parties before any policy approach can be considered robust.</li> <li>3. It is not for the Council to dictate a precise mix for all housing developments. The precise mix of affordable dwellings in any housing development should be a matter for negotiation between developers and the Council taking on board the latest</li> </ol>

				<p>information from the evidence base, the availability or not of grant funding, current market conditions, and the nature and characteristics of each site.</p> <ol style="list-style-type: none"> <li>4. The Federation does not consider it appropriate to delegate matters such as the amount, type and size of affordable housing to a SPD.</li> <li>5. The statement that 'the Council will require the provision of 35% affordable' should be replaced by 'the Council will seek up to 35% affordable'.</li> <li>6. It is unclear as to who exactly has been involved in its formulation, particularly in terms of stakeholder involvement by the development industry. The document would appear to have been put together entirely from a local authority perspective without any regard to the likely associated costs involved, or the impact that the document could have on housing delivery.</li> <li>7. The proposed document is seeking to fundamentally change adopted planning policies rather than supplement them (as the Borough Council claims), and will bring with it major new costs. It is clearly inappropriate for such policy changes to be introduced via SPD, when instead they ought to be introduced either nationally or through the DPD system where they can be subject to an appropriate level of public scrutiny.</li> <li>8. THE HBF is concerned that the financial impact of the proposals has been ignored, as has the technical limitations of many of the proposals. The text is at times confusing as to what is seen as being actual requirements, and what are more suggestions or possible solutions. The Federation favours the identification of aims and possible solutions rather than the setting of rigid requirements.</li> </ol>
SPD/AH//L DF/000387 5	Home Builders Federation		Comment	<p>1.3 – 1.4: The Council's Core Strategy and Development Control Policies DPD has only reached the submission stage, and is yet to reach proper scrutiny at a Public Examination. Therefore, the Council will clearly not be in a position to adopt this draft document as SPD until the aforementioned document to which it relates is finally adopted. The final DPD document could of course be quite different. Therefore, it seems premature to publish a draft SPD relating to the content of policies whose final wording is not yet known.</p>
SPD/AH//L DF0003875	Home Builders Federation		Comment	<p>The Council will now need to take on board the full implications and relevant content of PPS3 and Delivering Affordable Housing (November 2006), and revise the text accordingly (including removing references to earlier versions of guidance)</p>

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SPD/AH/L DF/000387 5	Home Builders Federation		Comment	2.6 & 3.1 – 3.6 Draft Policies CPI5, DC33 & DC34 are subject to objections and have yet to be considered at a public examination. The Council's Core Strategy and Development Control Policies DPD has only reached the submission stage, and yet to reach proper scrutiny at a Public Examination. Therefore, the Council will clearly not be in a position to adopt this draft document as SPD until the aforementioned document to which it relates is finally adopted. The final DPD document could of course be quite different. Therefore, it seems premature to publish a draft SPD relating to the content of policies whose final wording is not yet known. Alternatively, the Council could aim to produce Interim Policy guidance, which expresses its position on a subject matter, but will obviously only have the very limited weight of a document of such status.
SPD/SH/L DF/000387 5	Home Builders Federation		Comment	2.7 -2.12 The Council makes reference to a Housing Needs Survey, but does not seem to have undertaken a Housing Market Assessment in order to inform housing policy as advocated in national planning guidance. The Council should, therefore, ensure that a Strategic Housing Market Assessment is now undertaken in order to underpin its evidence base for new planning policies.  In determining what levels and types of affordable housing the Council will seek, regard must be had to viability (including other planning gains being sought) and the availability or not of grant funding. The HBF supports the cascade approach as advocated in the latest government guidance.
SPD/AH/L DF/000387 5	Home Builders Federation		Comment	2.13 – The Federation does not consider it appropriate for the Council to set out financial contribution requirements, including a 'standard charges' approach to securing strategic infrastructure, in an SPD. Instead, they should be properly considered as part of the DPD process, and subject to a proper level of public scrutiny. Furthermore, any requirements will need to be in full compliance with national planning policy, including Circular 5/05.
SPD/AH/ LDF000387 5	Home Builders Federation		Comment	2.1 & Appendix I – The Council refers to an illustrative legal agreement. However, any such agreements will need to fully reflect the interests of landowners, developers and other interested parties
SPD/AH//L DF/000387 5	Home Builders Federation		Comment	3.8 – 3.19: The Council will need to take on board the content of PPS3 and 'Delivering affordable housing' and ensure that its affordable housing definition is in compliance with these. In determining appropriate levels of different types of affordable housing to be sought the Council will need to consider the availability or not of grant funding and other likely planning gain requirements. It will need to take on board the cascade approach where funding is likely to be inadequate or unavailable.

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				The HBF's membership is opposed to 'open book' accounting, which requires the disclosure of confidential (and often market sensitive) information.
SPD/AH/L DF/000387 5	Home Builders Federation		Comment	4.1 – 4.2: The Council states in relation to viability that it will allow the variation of the affordable housing requirement in s.106 agreements if it is satisfied that the existing physical constraints on a site result in extraordinary costs. The Council is at deviance with latest government policy in PPS3, which fully recognises the availability of public funding to the delivery of affordable housing provision. It will need to take on board the cascade approach where funding is likely to be inadequate or unavailable.  The HBF's membership is opposed to 'open book' accounting, which requires the disclosure of confidential (and often market sensitive) information.
SPD/AH/L DF/000353 5	EERA		Comment	The three Supplementary Planning Documents do not contain new policies but provide detailed guidance to support policies in either the Core Strategy or the AAP. They do not raise specific regional issues.
SPD/AH/L DF/000355 2	Environment Agency		Comments	No suggested changes to the accompanying Sustainability Appraisal