

Chelmsford Draft Local Plan

Examination Hearing Statement

Matter 6d:

Housing Provision - Affordable Housing

November 2018



Introduction

1. This hearing statement sets out the Council's response in relation to the Inspector's Matters, Issues and Questions.
2. All the evidence base documents referred to in this statement are listed at **Appendix A**, with their evidence base or examination document reference numbers as applicable.

Matter 6d – Housing provision – Affordable Housing

Question 66	Are the requirements for affordable housing set out in Policy HO2(A) justified, effective and consistent with national policy? In particular:
Question 66a	Does the evidence support a requirement for 35% affordable housing for all new residential development that meets the criteria in the policy? On what basis has the figure of 35% been chosen and does the evidence support a lower figure of 23% or 30%?

Response to Q66a

3. The setting of the affordable housing requirement draws on a range of sources of evidence. The 35% requirement for all criteria in Policy HO2(A) is based on a combination of different sources of evidence, including:
 - the findings of the Braintree District Council, Chelmsford City Council, Colchester Borough Council, Tendring District Council's Strategic Housing Market Assessment (SHMA) Update December 2015 (**EB047**);
 - Government policy;
 - the findings of the Local Plan Viability Study including CIL Viability Review January 2018 (**EB082A**); and
 - completions monitoring data and the Council's priorities.
4. The SHMA Update (**EB047**) tests the ability of households in unsuitable housing or lacking their own housing to afford the cost of entry-level market housing of the appropriate size. The SHMA Update (**EB047, paragraph 7.11**) calculates an annual requirement for **179 social or affordable homes for rent** in Chelmsford which it then tests against the Objectively Assessed Housing Need (OAHN). The need for affordable housing is 175 social or affordable homes per year, having allowed for vacancies, this is adjusted to 179 per year. The SHMA Update (**EB047**) reports a figure of 23.1% based on an OAHN of 775 dwellings per annum identified in the OAHN Study published in July 2015 (**EB046**). This percentage is very slightly altered (22.2%) when calculated against an OAHN of 805 dwellings per annum identified in the OAHN Study November 2016 update (**EB048**). The SHMA Update (**EB047, paragraph 7.9**) recommends an overall affordable housing target

of '30% or so' to reflect site specific negotiations with developers on viability (although it is important to note that this recommendation was made before the Council had updated its viability evidence) and the fact that the site threshold in Policy HO2(A) means not all sites will deliver affordable housing.

5. The SHMA Update (**EB047**) reviewed a range of affordable housing products available to meet housing need. Households in housing need, were assigned the most expensive housing product they could afford using the estimated cost of intermediate housing in table 3.4 of the SHMA Update (**EB047**). The SHMA Update (**EB047, figure 7.2, page 84**) calculates an annual requirement for 179 social or affordable rented dwellings. The SHMA Update (**EB047, Tables 3.7 and 3.8, page 44**) also shows the potential demand for both discounted market housing and shared ownership housing arising from households already in the market sector, so not in affordable housing need. The SHMA Update (**EB047, Tables 3.7 and 3.8, page 44**) shows a combined potential annual demand (as opposed to need) for discounted market housing and shared ownership housing of 128 dwellings per annum.
6. In February 2017 the Department for Communities and Local Government (DCLG) published 'Fixing our broken housing market'. The housing white paper set out the Government's plans to reform the housing market and boost the supply of new homes in England. Paragraph 4.17 in Chapter 4 ('Helping people now') states the Government's intention to amend the National Planning Policy Framework (NPPF) to introduce a clear policy expectation that housing sites deliver a **minimum** of 10% affordable home ownership units. This national policy requirement is incorporated as **AC208** on page 52 of the Schedule of Additional Changes (**SD002**). This requirement, with some exceptions, is also now enshrined in paragraph 64 of the NPPF (2018), as part of the overall affordable housing contribution from a site.
7. The Council's draft Planning Obligations Supplementary Planning Document (SPD) (**EB133**) states that to ensure new affordable housing is weighted to make a proportionate contribution to the assessed need, the Council will expect the affordable housing on sites meeting the criteria in Policy HO2(A) to include 23.1% of the total number of dwellings within the development as either social or affordable rented accommodation and 11.9% of should be provided as affordable home ownership. Adding the requirement for 11.9% affordable home ownership dwellings to the 23.1% assessed need for social or affordable housing for rent calculated in the SHMA Update (**EB047, Figure 7.2, page 84**) is justified in order to be consistent with the housing white paper and meet the potential demand for affordable home ownership products identified in the SHMA Update (**EB047, Tables 3.7 and 3.8, page 44**).

8. The Local Plan Viability Study Including CIL Viability Review (**EB082A – from paragraph 10.9**) base appraisals include an allowance for 35% affordable housing on sites of 11 dwellings or larger. Of the 35%, the base appraisals attribute 67% of the affordable housing to affordable rent and 33% as intermediate affordable housing to buy (shared ownership housing). The Viability Study (**EB082A**) therefore tested the same proportions of affordable housing as being sought in the draft Planning Obligations SPD (**EB133**), when calculated to the nearest whole percentage. The Viability Study (**EB082A**) demonstrates that the thresholds and types of affordable housing contributions identified in Policy HO2(A) are achievable and the cumulative impact of policies in the Local Plan will not put development at serious risk.
9. Representations on behalf of The North East Chelmsford Garden Village (PS2066) and the Home Builders Federation (PS1667) use the annual requirement for 179 affordable homes in Chelmsford calculated in the SHMA Update (**EB047 – paragraph 7.11**) to show that the supply of affordable homes in the Housing Trajectory at the recommended requirement of 35% would exceed the Council's evidence of need. The analysis provided by the North East Chelmsford Garden Village (PS2066) and the Home Builders Federation (PS1667) in relation to the Housing Trajectory does not distinguish between the need for different tenures of affordable housing.
10. The PPG (paragraphs 2a-29) (2014) states that the purpose of the calculation of the net need for affordable housing is to enable the consideration of its likely delivery as a proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing delivered by market led developments. An increase in the total housing figures included in the local plan should be considered where it could help to deliver the required number of affordable homes. The annual need for affordable housing identified in the SHMA Update (**EB047**) is not an annual affordable housing requirement to be met; nor is it something that should not be exceeded; but rather it provides an indication of what the probable percentage of affordable housing delivered by market housing led developments should be to determine whether the total housing figures included in the local plan should be increased to help deliver the required number of homes.
11. The only numerical affordable housing requirement proposed in the Local Plan is the 35% requirement set out in Policy HO2(A). The Council has required a 35% affordable housing contribution on sites of 15 or more dwellings or 0.5 hectares or larger since the adoption of its current Local Development Framework in 2008. Under the current framework, the Council has required 23.45% of the total number of dwellings to be provided as affordable or social rented housing and the balance, 11.55%, to be provided as intermediate housing, most commonly shared ownership housing. Between 1st April 2008 and the 31st March 2018 (so in the period from the bottom of the economic downturn through to now), 21%

of total new residential completions have been affordable housing, made up of 16% social or affordable rented dwellings, with the balance (5%) being intermediate housing.

12. Over the last 10 years the Council has only delivered 35% of all new homes as affordable homes in one monitoring year (**EB173, Table 10, page 26**). This should not be seen as a surprise as whilst the Council has a good record of achieving 35% on specific sites (**EB173, Table 11, page 27**), very little affordable housing has been delivered on sites of less than 15 units and some sites have been subject to site specific viability assessments. In order for the Council to achieve 23.1% affordable housing for rent and for at least 10% of the housing to be affordable home ownership products it is necessary to have a target of at least 35%.
13. The Council's Corporate Plan sets out the ambition for Chelmsford City Council for the forthcoming years. At the time of Submission of the Local Plan, one of the key corporate priorities was to 'facilitate suitable housing for local needs'. This corporate priority is reflected in Strategic Priority 2 in the Local Plan – Meeting the needs for new homes. Policy HO2(A) is critical to achieving this priority and is an integral part of the overall ambition of the Local Plan to significantly boost the supply of housing.
14. Based on a combination of the SHMA Update (**EB047**); the housing white paper; the Viability Study (**EB082A**) and completions data, the Council believes the overall requirement for 35% affordable housing for all new residential development that meets the criteria in Policy HO2(A) is both justified and consistent with national policy, as well as reflecting local priorities.

Question 66b	Are the criteria for considering the suitability of affordable housing within schemes clear and justified?
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Response to Q66b

15. The criteria for considering the suitability of affordable housing within schemes is based on the SHMA Update (**EB047**); national policy; Council experience and the Viability Study (**EB082A**).
16. The SHMA Update (**EB047**) informs the suitability of the mix and tenure of affordable homes. Figure 7.2 in the SHMA Update (**EB047**) shows the mix, size and tenure of the new affordable housing required in Chelmsford. Policy HO2(A)i allows the mix, size, type and tenure of new affordable housing to change over the course of the Local Plan period, as assessments of housing need are updated.
17. The NPPF (2012) requires local planning authorities to provide inclusive and mixed communities. To help achieve this, Policy HO2(A)ii seeks affordable housing which is

integrated into residential layouts to avoid over-concentration of affordable housing in any location and housing to be designed to aid visual integration. The Council has deliberately avoided prescriptive guidance on these matters as experience has shown formulas designed to inform the location of affordable dwellings within a scheme have been difficult to apply in practice to the range of site typologies in the Local Plan. In addition, Registered Providers have in the past asserted financial and management reasons for seeking different groupings of affordable dwellings to those set out in planning guidance on certain typologies of sites.

18. The Council has chosen to specifically address the level and form of car parking provision in the Reasoned Justification to Policy HO2(A) because in the Council's experience this has been one of the most visually distinctive factors between affordable and market housing in mixed tenure housing proposals in recent years. Policy HO2(A) requires a certain degree of flexibility as the need for types of market and affordable housing differ, as shown in figure 7.2 of the SHMA Update (**EB047**) and could change over the course of the Local Plan period, as assessments of housing need are updated.
19. Annex 2 of the NPPF (2012) requires affordable housing to include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision. Criteria (iii) in Policy HO2(A) replicates this national policy requirement but clarifies that these provisions will be secured through planning obligations.
20. The Viability Study (**EB082A**) tested a range of affordable housing requirements and mixes based on a site threshold requirement of 11 or more residential units in line with Policy HO2(A). The Viability Study (**EB082A**) demonstrates that the thresholds and types of affordable housing contributions identified in Policy HO2(A) are achievable and the cumulative impact of policies in the Local Plan will not put development at serious risk.
21. Based on a combination of the SHMA Update (**EB047**); national policy; Council experience of visually distinctive car parking proposals and Registered Provider requirements for the management and maintenance of affordable homes and the Viability Study (**EB082A**), the Council believes the criteria for considering the suitability of affordable housing within schemes is justified and provides appropriate clarity to achieve both local and national policy objectives.

Question 66c	Paragraph 8.13 states that the Council may consider a financial contribution in lieu of on-site affordable housing provision in certain circumstances and reference is made to the Planning Obligations SPD 2018 (EB133). Should this approach be set out in the policy? Is it clear how and where off-site affordable homes will be delivered and what mechanism will be used to determine the commuted sum levels?
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Response to Q66c

22. The Council's approach to financial contributions in lieu of on-site affordable housing is considered to be clear, justified and consistent with national policy.
23. Paragraph 50 of the NPPF (2012) advises that if affordable housing is needed, local planning authorities should set policies for meeting this need on-site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified. Thus, the assumption is that provision will, save exceptionally, be on site. Policy HO2(A) reflects national policy in this respect and consideration for a financial contribution in lieu of on-site provision is therefore addressed in the supporting text and the Draft Planning Obligations SPD (**EB133**), rather than Policy HO2(A).
24. Paragraph 8.13 of the Local Plan and paragraph 6.21 of the Draft Planning Obligations SPD (**EB133**) states that the Council may consider a financial contribution in lieu of on-site affordable housing on development sites which comprise between 11 and 15 residential units, to improve the provision of temporary accommodation for homeless households.
25. Until recently, many local housing authorities, including Chelmsford City Council, relied upon the private rented sector to help meet local housing need and lower the need for temporary accommodation. Over the last few years, the private rented sector can no longer be relied upon to the same extent due to the rising cost of the sector. The inability to renew or find alternate housing in this sector when tenancies come to an end is now the main cause of homelessness in the City. In May 2018 there were 318 households in temporary accommodation. In most cases these will be people and families to whom the Council has a statutory duty to secure accommodation for and will therefore be a priority for securing settled accommodation.
26. In April 2018, the Homelessness Reduction Act 2017 came into force. The Act introduces a greater focus on the prevention of homelessness, requiring everyone who contacts the Council and is at risk of becoming homeless to be given help and support to prevent this wherever possible. There is also a new duty to provide relief (temporary accommodation)

to some where it is not possible to prevent them from losing their accommodation.

27. In order to respond to the increased need for temporary accommodation the Council considers the ability to consider a financial contribution in lieu of on-site affordable housing on development sites which comprise between 11 and 15 residential units is justified.
28. The ability to consider a financial contribution in lieu of on-site affordable housing provision will also enable the Council to improve the temporary accommodation offer. The Council has a limited portfolio of accommodation and is currently dependent on the private sector to meet the demand for temporary accommodation. This restricts the Council's ability to respond flexibly to changing patterns in demand for temporary accommodation and manage its statutory duties as a local housing authority.
29. The Council has used commuted sums received in lieu of on-site affordable housing to recently provide 18 new 'modular' temporary accommodation units on two council owned sites in the city. Built to provide short term accommodation for people until permanent accommodation can be found, the developments are made up of one- and two-bedroom units. The units have been designed to be cost effective to enable the Council to provide more quality accommodation to people in urgent need than it could through the more expensive private sector options, such as renting additional housing and bed and breakfast accommodation.
30. The threshold of between 11 and 15 residential units is considered appropriate because many households in temporary accommodation are also a priority for securing settled social and affordable rented accommodation. Therefore, in meeting the increased need for temporary accommodation, the Council does not want to unduly increase the time households spend in temporary accommodation waiting for settled social and affordable rented accommodation. The site threshold of between 11 and 15 residential units seeks to balance these competing demands without also unduly impacting on the objective of creating mixed and balanced communities.
31. To ensure flexibility over the plan period, and in recognition that the Council's current need to improve the provision of temporary accommodation for homeless, households may be addressed early in the Local Plan period. Paragraph 8.13 of the Local Plan provides flexibility on whether the Council seeks a contribution in lieu of on-site provision.
32. The Council is not seeking an off-site affordable homes contribution but a financial contribution in lieu of on-site provision of 'broadly equivalent value'. The method for calculating a commuted sum is to assess the open market value of the dwellings that would be affordable units, and then deduct from that the amount that a Registered

Provider would pay for those units as affordable units. The difference is the commuted sum. This is set out in paragraph 6.22 of the Draft Planning Obligations SPD (**EB133**) rather than the policy because it enables the method to be more easily updated if appropriate.

33. The Viability Study (**EB082A – from paragraph 10.47**) specifically considered commuted sums. Because the principle for calculating a financial contribution in lieu of on-site provision is of ‘broadly equivalent value’ and the method in paragraph 6.22 of the Draft Planning Obligations SPD (**EB133**) replicates that applied in the Viability Study (**EB082A**), both scenarios presented in Paragraph 8.13 of the Local Plan have been tested in the Viability Study (**EB082A**).
34. The Viability Study (**EB082A**) provides two alternative approaches for calculating a financial contribution in lieu of on-site provision – a standard commuted sum payment and a scheme by scheme approach. The Council opted for the latter as it has the advantage of using up-to-date figures.

Question 66d	Has the impact of affordable housing on the viability of schemes been assessed? Is there sufficient flexibility in circumstances where there may be a lack of viability to deliver all the affordable housing within a scheme?
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Response to Q66d

35. The Viability Study (**EB082A**) tested a range of affordable housing requirements and mixes based on a site threshold requirement of 11 or more residential units and the ability of development to also meet the wider policy requirements of the Local Plan, including other developer contributions and the Community Infrastructure Levy. The Viability Study (**EB082A**) demonstrates that the threshold and types of affordable housing contributions identified in the Local Plan are achievable and the cumulative impact of policies in the Local Plan will not put development at serious risk.
36. Section 15 of the Draft Planning Obligations SPD (**EB133**) provides advice on the information required and process to be followed when a viability assessment is submitted with a planning application. Paragraph 15.12 of the Draft Planning Obligations SPD (**EB133**) confirms that when the Council is satisfied that a scheme cannot be fully compliant with the Council’s policies and remain financially viable, the Council may consider a reduced level of planning contributions in one or more areas.
37. Representations on behalf of Redrow Homes (PS1958), Seven Capital Plc (PS1778) and Countryside Properties (UK) Ltd (PS1221) state that Policy HO2(A) should be more flexible

and allow for the level of affordable housing to be determined with regard to the viability of the proposed development. However, given the Viability Study (**EB082A**) demonstrates that the policies in the Local Plan are realistic and will not undermine deliverability of the Local Plan, the Council considers it appropriate to provide advice on site specific viability considerations at the decision-making stage in the Draft Planning Obligations SPD (**EB133**). This approach also enables the viability of planning contributions as a whole, rather than just the affordable housing contributions, to be reconsidered when the Council is satisfied that a scheme cannot be fully compliant with the Council's policies and remain financially viable.

38. The Council considers that this approach complies with national policy and provides flexibility at the decision-making stage.

Question 67	Is the rural exception sites part B of Policy HO2 justified and effective? Does the evidence support such sites only within 'Designated Rural Areas' or should it apply to the 'Rural Area' as defined in Strategic Policy S13? Is it compliant with paragraph 54 of the Framework?
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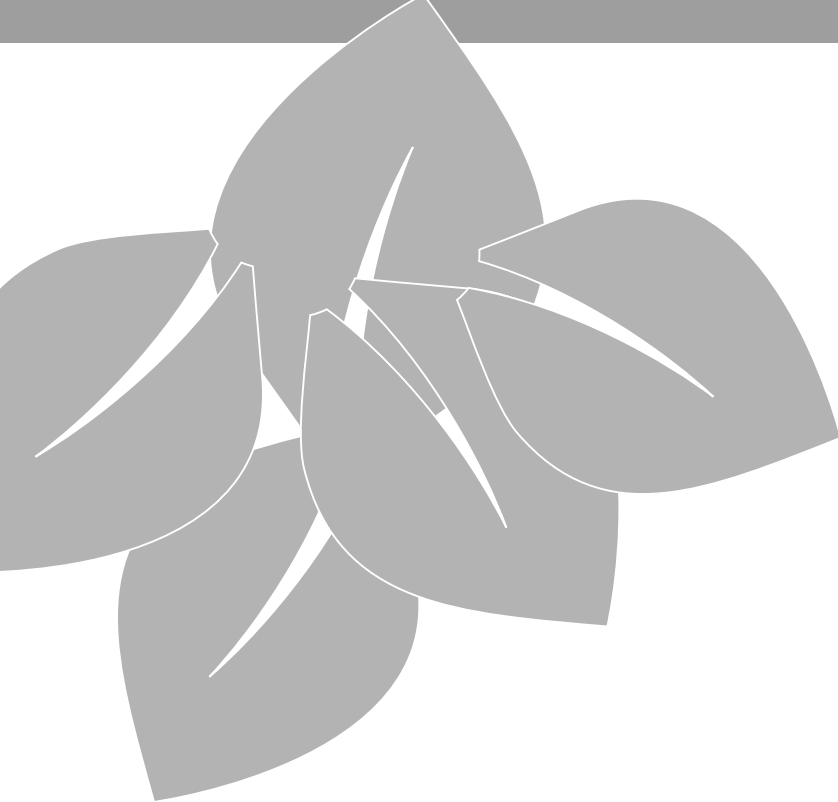
Response Q67

39. Paragraph 54 of NPPF (2012) requires local planning authorities to be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Annex 2 (Glossary) of the NPPF (2012) defines rural exception sites as small sites used for affordable housing in perpetuity where sites would not normally be used for housing.
40. Policy HO2(B) only applies to small sites within Designated Rural Areas in order to ensure that the national requirement for affordable housing on rural exception sites to be secured in perpetuity can be met. The Designated Rural Areas listed in paragraph 8.16 of the Local Plan are those Parishes within the administrative area of Chelmsford that are:
- (i) Designated Rural Areas under the Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the East) Order 1997;
 - (ii) Designated Protected Areas under the Housing (Right to Enfranchise) (Designated Protected Area) (England Order) 2009; and
 - (iii) Designated Protected Areas under the Housing (Shared Ownership Leases) (Exclusions from the Leasehold Reform Act 1967) (England Regulations) 2009.

41. These Regulations ensure new affordable housing in these areas can be brought forward without the risk of the homes subsequently being lost to the open market.
42. In summary, where affordable housing is provided within such designated areas these Regulations, between them, have the effect of -
- (i) excluding the statutory rights of tenants of registered social landlords to acquire their homes under the “right to acquire” (section 180 of the Housing and Regeneration Act 2008);
 - (ii) excluding the rights of tenants with long leases to enfranchise under the Leasehold Reform Act 1967; and
 - (iii) requiring tenants of shared ownership leases to sell their property back to the landlord or to a housing association or registered social landlord nominated by the landlord, rather than on the open market.
43. The risk of affordable homes being delivered and then subsequently lost on the open market cannot be mitigated on sites in the Rural Area as defined in the Strategic Policy S13; unless they also fall within one of the aforementioned Designated Rural Areas.
44. Paragraph 54 of the NPPF (2012) states that local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs. The criteria in Policy HO2(B) includes a requirement for the Council to be satisfied that there is clear evidence of the need for the number and type of housing proposed within the Parish. Paragraph 8.18 of the Local Plan provides further information on the evidence of local housing need required to support a rural exception site. Paragraph 6.25 of the Draft Planning Obligations SPD (**EB133**) further requires the local housing needs analysis to identify the types of local connection that households in housing need have with a Parish. This is consistent with national policy as the definition of rural exception sites in the NPPF (2012) states that they seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection.
45. The Council considers the other criteria listed in (ii) – (vii) of Policy HO2(B) appropriate and justified to comply with paragraph 54 of the NPPF (2012) and the definition of rural exception sites in Annex 2 of the NPPF (2012).

APPENDIX A

EVIDENCE BASE LIST FOR MATTER 5	
EB046	Braintree District Council, Chelmsford City Council, Colchester Borough Council, Tendring District Council Objectively Assessed Housing Need Study July 2015
EB047	Braintree District Council, Chelmsford City Council, Colchester Borough Council, Tendring District Council Strategic Housing Market Assessment Update December 2015
EB048	Braintree District Council, Chelmsford City Council, Colchester Borough Council, Tendring District Council Objectively Assessed Housing Need Study November 2016 update
EB082A	Local Plan Viability Study Including CIL Viability Review January 2018
EB133	Draft Planning Obligations SPD June 2018
EB173	Draft Authority Monitoring Report 1 st April 2017 – 31 st March 2018
SD002	Schedule of Additional Changes June 2018



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