

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
General Points			
1. It would be desirable to identify some means of ensuring that affordable housing is actually accessed by indigenous populations rather than exclusively by those with no roots in the area.	Rye Town Council	The definition of affordable housing in the Local Plan, which is reproduced in the draft SPD (para. 5.1), highlights that it is housing for local people (or key workers). All allocations are made in accordance with the Council's allocations policy. This policy and its reviews are agreed by Members of the Council. Also for some developments, where possible, local lettings policies are used. The Council also has a legal duty to re-house households in accordance with homeless legislation, these households in most cases would need to have a local connection.	No change proposed
2. The document is clear though rather long winded. Due to the nature of the document it could be little else.	Don Freeman	Comment noted.	No change proposed
3. The Parish Council objects to the draft policies but instead would like to see policies that encourage affordable housing in villages for professional young people to buy rather than social housing to rent where there is already sufficient in villages such as Sedlescombe.	Sedlescombe Parish Council	The affordable housing Local Plan policies are confirmed and are not subject to change through this SPD. The purpose of the SPD is to elaborate on how the policies will be applied in practice. The SPD (paragraph 7.12 – 7.13) highlights that the particular tenure mix for a site will be informed by the nature of local affordable needs as well as the circumstances of the site. The nature and number of existing affordable houses in the immediate area would be a factor which would inform this decision. Other tenures, such as shared equity, do enable young people to start of the	No change proposed.

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>4. The draft appears to major on the needs of the developer rather than the community the Council represents. Parishes are only given but weeks to consider the draft. Had the draft been submitted to Parishes at the same time as it went to other agencies, sufficient time may have been available. This is for all rural parishes a serious matter, worthy of deliberate consideration.</p>	<p>Ewhurst Parish Council</p>	<p>housing ladder. There are also products specifically for local key workers.</p> <p>The consultation period for the draft SPD itself was 6 weeks, the maximum allowed for by the relevant Regulations and all consultees had the same length of time to comment.</p> <p>The respondent may be referring to the very start of the SPD preparation process when a limited number of bodies were asked for their views simply on what issues the SPD should cover.</p> <p>The draft SPD, as a planning guidance document supplementary to Policies HG1 and HG2, necessarily focuses on the information required by applicants to ensure they implement the requirements of the policies, rather than providing a more general commentary on affordable housing issues.</p>	<p>No change proposed.</p>
<p>5. No reference is made to the suspension of the Right to Buy other than the inference in para. 10.7. All 'affordable housing' should remain excluded from Right to Buy for a defined and extended period. Furthermore, if a decision to place an affordable home on the open market (or to re-categorise it as social housing) is made, consideration should be given to providing a replacement affordable home on the basis of need.</p>	<p>Ewhurst Parish Council</p>	<p>Some tenants have preserved Right to Buy, these are legal rights and cannot be removed or suspended. On new developments the right to acquire would also be a legal requirement and no Housing Corporation funding would be made available to provide these homes without this legal requirement.</p> <p>The respondent identifies that by this means a limited number of affordable houses are lost from the overall stock. Affordable dwellings can be replaced by the application of HG1 although the scope to replace or add to the stock of affordable housing in a particular location will be contingent on the availability of a suitable site which is either above the requisite thresholds in Policy HG1 or can be developed by an RSL for wholly affordable housing, including on rural</p>	<p>No change proposed.</p>

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
6. No mechanisms are demonstrated in the SPD for the implementation and monitoring of the delivery of affordable and market housing arising from the application of Policy HG1.	McCarthy and Stone (Developments) Ltd.	exceptions sites. Section 11 outlines the monitoring arrangements for affordable housing delivery which will be encompassed in the Council's Annual Monitoring Report, as will the monitoring of market housing commitments and completions.	No change proposed.
Glossary			
7. The glossary should include definitions of terms used in the draft s106 agreement in Appendix C e.g. commence / commencement, Lifetime Homes Standards.	East Sussex County Council (officer view)	Agreed, although the Government's Model Planning Obligation (s106) includes various definitions. (also see response to comment 55)	Add s106 terms to the glossary.
Context			
8. It would be helpful if the context section included a reference to Circular 05/05 on Planning Obligations and its key points.	East Sussex County Council (officer view)	Agreed.	Add a new paragraph after paragraph 4.2 to read as follows: <u>"4.2a Also relevant is Circular 05/05 relating to planning obligations (i.e. section 106 agreements). A planning obligation must be relevant to planning, necessary to make the development acceptable in planning terms, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects. The Circular re-states the presumption for the on site provision of affordable housing (paragraph B14)."</u>
9. The only source of research available is the Council's Housing Needs Assessment by David Couttie Associates. The study does not examine need across all housing tenures. Affordable housing cannot be dealt with in isolation from market housing or without being considered in the context of other key strategic objectives (eg economic growth). The creation of an affordable housing policy informed solely	McCarthy and Stone (Developments) Ltd.	The policies upon which this SPD elaborates, and the evidence upon these policies are based, have been thoroughly tested and confirmed through the very recent Local Plan process. Future affordable housing policies to be contained in the Core Strategy will need to accord with the government guidance applying at the time and analysis of	No change proposed.

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>by affordable housing need would not ensure that the type and location of affordable housing complements other strategic policy objectives. These policy proposals should not be detrimental to the overall delivery of market housing in the local area. The aim of the new planning system is to strategically link all parts of policy informed by the community plan through spatial planning and thinking. The evidence base should include a full housing market assessment, detailed analysis of housing supply, urban capacity study, grant availability assessment, whether communities are mixed and balanced and viability considerations. There is no evidence that consideration has been given to the relationship Rother has with neighbouring authorities and the sub-region as a whole. We question whether the provisions of the Act and PPS12 have been met in terms of this LDD being based on robust and credible evidence.</p>		<p>housing needs as well as the outcome of monitoring the implementation of the current adopted affordable housing policies in the Local Plan.</p> <p>The recently undertaken Housing Market Assessment for the sub-region reinforces the need for affordable housing across the district.</p>	
Section 5: What is Affordable Housing?			
<p>10. Pleased to see you have included sub-market rented. This is a positive step in meeting the needs of the wider population and helps negate the need for so many shared-ownership units where the financial viability of a scheme is an issue.</p>	<p>Wealden District Council (officer view)</p>	<p>Comment noted.</p>	<p>No change proposed.</p>
<p>11. Re shared ownership: Is it worth specifying in the SPD the maximum % initial equity shares that will be sold on shared ownership? Alternatively it could specify that officers will specify the % for a particular scheme after carrying out affordability checks. Or is this done in the s106?</p>	<p>Wealden District Council (officer view)</p>	<p>Maximum % equity shares will be determined on a site by site basis, dependant upon local income levels and affordability in the local area. This could usefully be clarified in the text.</p>	<p>Amend the third sentence of paragraph 5.9 and add an additional sentence as follows: ... The RSL or other body would then sell an equity stake in the house (normally a minimum of 25%) and the RSL or other body would retain the remaining proportion. <i>The minimum (normally</i></p>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
			<u>25%) and maximum initial equity stake percentages will be determined on a site by site basis dependant upon local income levels and affordability in the local area and will be specified in the s106 agreement.</u> (Further information on...
12. The SPD suggested that the greatest proportion of the affordable units sought will be social rented. The SPD should acknowledge that the requirement for each site will be based upon up to date and robust local housing needs assessments and that the balance between social rented and shared ownership will be determined on a site by site basis. Policy VL6 (Grove Farm, Robertsbridge) requires the provision of housing for the elderly which meets a specific identified local need and which should be considered when determining the appropriate level of affordable housing provision.	Croudace Strategic Limited.	Paragraphs 7.12 and 7.13 of the SPD confirm that social rented housing will be the predominant tenure sought in accordance with the Local Plan. Consistent with the respondent's view, the exact tenure mix of the affordable housing for a particular site will be determined according to the nature of local need (though the latest housing needs, survey, Housing Register and homelessness statistics) as well as the circumstances of individual locations and the detail of the development proposal. Housing for the elderly is frequently market housing so the need being provided for is not an affordable need. Footnote 2 in Circular 6/98 confirms that special needs housing should still be regarded as housing development for the purposes of applying affordable housing policies. If the application of the 40% requirement has an impact upon the viability of an allocated site, the Local Plan confirms that the viability test in Policy HG1 would apply.	No change proposed.
13. The inclusion of 'social' housing in an 'affordable housing' definition may lead to confusion and could well lead to difficulties in operation. 'Affordable housing' should be specifically for those willing to go into a limited duration occupancy contract to get a first foot on the housing ladder. The sustainability document further complicates	Ewhurst Parish Council	The term 'affordable housing' is defined in the Local Plan and encompasses a range of tenures (see Section 5 of the draft SPD). The SPD aims to distinguish between tenure types where necessary, otherwise using the composite term 'affordable housing'.	No change proposed.

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>the matter by focusing on the Rother-wide need for 'social housing' to the detriment of 'affordable housing' for local emerging families in their own communities. This does not denigrate the needs of the socially deprived but underlines the need not to confuse by lumping the categories together.</p>			
<p>14. The tenure that the Council considers to be affordable cannot be a definitive list. When agreeing with developers the types of affordable housing, for a site, the Council must also consider the development itself and compatible uses in the interests of securing a sustainable development and mixed and balanced communities. The overall need for social rented and intermediate forms of affordable housing must be balanced against the supply of these forms of housing. Intermediate housing enables greater choice and opportunities to households who otherwise would have none. Increasing social renting at the expense of other forms of affordable housing is likely to result in increased polarisation between those renting and home owners, trapping those unable to purchase and not offering further choice to those already in social rented accommodation. Offering choice to such households through additional intermediate housing in its various forms (shared equity, shared ownership, discount market rented and low cost home ownership) could free up social rented units for households in greater need. The needs of the whole market should be considered. We recommend that greater consideration is given to the need for different forms of intermediate tenures together with</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>It is recognised in the Local Plan, and reflected in the draft SPD, that the needs of those in priority housing need are best met through the provision of social rented houses. Paragraphs 7.12 and 7.13 confirm that the affordable housing tenure mix on a particular site will be informed by local needs and also by the circumstances of individual locations and the nature of the development proposal under consideration. The balance between the requirement for social rented houses and the scope for 'intermediate' tenures may be influenced by the tenures of any existing affordable dwellings already in the locality. It is of note that the area is characterised by low incomes and high property prices which militates against some of the intermediate solutions referred to.</p>	<p>No change proposed.</p>

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>assisting people in their aspirations to become homeowners and to participate in the housing market.</p>			
Section 6: When does Policy HG1 apply?			
<p>15. Pleased that Policy HG1 applies to sheltered and extra care schemes as this is something private developers argue against.</p>	<p>Wealden District Council (officer view)</p>	<p>Comment noted.</p>	<p>No change proposed.</p>
<p>16. Are the dwelling threshold figures net or gross?</p>	<p>East Sussex County Council (officer view)</p>	<p>The number of dwellings being created is the significant figure hence the policy thresholds are applied to the gross figure for a site.</p>	<p>Add the following sentence at the start of paragraph 6.2: <u>"6.2 The site size thresholds in the policy relate to the gross number of dwellings being provided. For mixed use proposals..."</u></p>
<p>17. Object to the requirement for affordable housing on mixed-used developments. Circular 6/98 places emphasis on providing housing on previously developed land in urban areas many of which are/were in employment use. For mixed use developments, if a contribution were to be sought, it would have to be assessed on site characteristics and whether it would be viable.</p>	<p>Fairview New Homes</p>	<p>The application of Policy HG1 to mixed use developments has been tested through the Local Plan process, supported by the Inspector and is the Council's adopted policy. Policy HG1 allows for the viability implications of the 40% requirement on a mixed use scheme to be taken into account where the applicant satisfactorily demonstrates that not to do so would render the site unviable.</p>	<p>No change proposed.</p>
<p>18. Re para. 6.5 (application site forms part of a larger site): The SPD fails to acknowledge that the larger site area may not be available for development at the time of the submission. It is unreasonable to expect developers to submit applications on site areas larger than their existing interests. The approach could effectively require all development sites to provide affordable housing and therefore undermines the need for site size thresholds. This approach would inhibit small developments which comprise an</p>	<p>Croudace Strategic Limited</p>	<p>The aim of the approach in the SPD is simply to ensure that affordable housing requirements are not deliberately avoided. Its aim is not to contrive for all sites to be required to provide affordable housing as is suggested.</p> <p>The reasons for 'non-availability', e.g. physical constraints or an owner's desire to phase development, may be relevant to the consideration.</p> <p>For clarification, an amendment to</p>	<p>Amend paragraph 6.5 to read as follows:</p> <p>Where the Policy HG1 thresholds are not met and the Council is satisfied that the application site in fact forms part of a larger site that does meet the thresholds, <u>or that the site has been subdivided to avoid the site size thresholds</u>, the applicant will be invited..."</p>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
integral part of the Council's expected contribution from previously developed land.		paragraph 6.5 is suggested to make it clear that the approach will be applied where the site has been sub-divided in an attempt of avoid the affordable housing requirements.	
19. There is no evidence that the Council has taken into account the deliverability of the policy in economic terms, taking account of the availability of funding and subsidy. The viability of the policy cannot be assessed in the absence of likely site information and would be informed by the site allocations strategy once finalised.	McCarthy and Stone (Developments) Ltd.	A viability study was presented as evidence in support of Policy HG1 at the Local Plan inquiry. The Study, which considered the types of sites likely to come forward in Rother, concluded that the 40% requirement was unlikely to prevent the majority of sites coming forward for development.	No change proposed.
20. The policy tests for the provision of affordable housing in Circular 6/98 (paragraph 10) may include reasons other than economics of provision. The SPD should recognise this to be consistent with national policy.	McCarthy and Stone (Developments) Ltd.	This matter was specifically considered by the Local Plan Inspector (see paragraph 6.25 of the Inspector's Report). The desirability of achieving other planning objectives may affect the consideration of the appropriate level of affordable housing. However, the Inspector recognises that frequently such matters have a financial basis which can then be taken into account in any viability assessment which is submitted.	No change proposed.
21. (re para. 6.6): Policy H6 of the Structure Plan recognises the need for "accommodation by a variety of means and tenures..." and one of the needs identified is for sheltered housing. The provision of market sheltered housing should be promoted through the plan's policies. The Council identifies that affordable housing policies must be levied against market sheltered and extra-care sheltered housing without considering the impact that this may have on the economics of development of those types of housing and the potential future supply of it. These	McCarthy and Stone (Developments) Ltd.	The need for a policy to support the provision of market sheltered housing will be a matter for the forthcoming LDF Core Strategy. As for all forms of residential development, sheltered/extra care schemes will be subject to the viability test encompassed in Policy HG1 whereby the economic implications of the development can be demonstrated. In terms of supply, the provisions of the Local Plan meet the housing requirements of the Structure Plan with which it must comply.	No change proposed.

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>drivers will all influence demand for all housing of which price is a determinant of supply and demand. Without consideration of supply issues and with demand unchecked prices will continue to rise, increasing the need for affordable housing.</p>			
Section 7: Key issues for planning applications			
<p>22. (re para. 7.5 re pre-application discussions): A developer will not bring forward a site for planning permission that he does not have control over i.e. a land contract will have been concluded and the land price set. It is against this set costs that affordable housing costs must be considered. Viability testing may therefore be of limited use in pre-application discussions.</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>Comment noted however developers know, or should know, the Local Plan policies applying in the area and thereby the percentage of affordable housing that will be required. It would be a reasonable expectation that developers factor in the costs of the affordable housing requirements in agreeing with a landowner a land deal for a site. Alternatively, an options contract between a landowner and developer should include a valuation mechanism which reflects the planning permission ultimately obtained.</p>	<p>No change proposed.</p>
<p>23. Re para 7.9 – 7.11 (proportion of affordable housing): Object to the requirement to provide a minimum of 40% affordable housing on all sites. This is unjustifiable and unacceptable. Circular 6/98 states that indicative targets for specific sites should be set and the level should be negotiated having regard to site circumstances. A minimum level does not allow for meaningful negotiation and could stifle housing development coming forward.</p>	<p>Fairview New Homes</p>	<p>The 40% requirement has been tested through the Local Plan process, supported by the Inspector and is the Council's adopted policy. However it is not a minimum requirement as suggested. Policy HG1 includes site size thresholds below which affordable housing is not required.</p>	<p>No change proposed.</p>
<p>24. (re para. 7.11 re proportion of affordable housing): We consider that seeking small proportions of units to be provided by means of an in lieu payment is costly to administer for both the developer and the Council and should not be progressed in the final SPD.</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>The specified approach ensures that the full contribution towards affordable housing as required by the policy is made by the applicant. As all development providing affordable housing will be subject to a s106 agreement (see paragraph 7.29 of draft</p>	<p>No change proposed.</p>

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
		SPD), the additional administrative burden of this approach is considered marginal.	
25. Re paras 7.12 – 7.15 (tenure/size mix): The SPD should specify that the tenure mix advised by the Council will not be subject to negotiation unless there is financial unviability (which the developer must prove). In practice, developers will offer higher levels of shared ownership to generate a better return. Negotiation may reduce this but the final result may not be what the Council wanted.	Wealden District Council (officer view)	The requirement for shared-ownership on a particular site will vary according to the local needs situation therefore it is not proposed that a tenure mix should be set in the SPD. The SPD (para. 7.13) and the Local Plan (para. 6.13) both clearly state that social rented will be the predominant tenure sought. The SPD could be improved by confirming that officers will set out the tenure/mix requirements rather than to simply advise on these matters.	Amend the last sentence of paragraph 7.12 as follows: Informed by the findings of the latest Housing Needs Study, the Housing Register and homelessness statistics, officers will advise on <i>set out</i> the size and tenure of the affordable housing units. Amend the third sentence of paragraph 7.13 as follows: Officers' advice on the <i>required</i> tenure mix will also be informed by the circumstances of individual proposals....
26. (re paras 7.12 – 7.15: tenure/size mix): We would question the robustness of the assumptions in the 2005 Housing Needs Assessment to justify the affordable housing tenure sought. A greater percentage than that identified in the HMA may afford intermediate housing due to the limited analysis of the types of intermediate products available. The proposals in their current form will exacerbate the polarised nature of the existing housing market. We recommend that references to tenure mix and unit size preference are removed due to the limited evidence base. Further studies will be required to inform the Council's preference, together with consideration of the wider issues of mixed and balanced communities and sustainable development.	McCarthy and Stone (Developments) Ltd.	It is considered unhelpful to remove all references to tenure and size requirements from the SPD as suggested by the respondent. That social-rented should be the predominant tenure sought was explored and confirmed through the Local Plan process. Paragraphs 7.12 to 7.15 of the draft SPD confirm that the Housing Needs Assessment forms part of the consideration of tenure and size mix, as will homelessness and Housing Register figures, but also the circumstances of the site in terms of the nature of the development and the characteristics of the location will be factors.	No change proposed.
27. Re para. 7.17 (funding): You do not stipulate what the RSL will pay the developer to build out the units. WDC has	Wealden District Council (officer view)	In some cases no grant will be available and only the funding amount that RSLs can raise on the rental stream income of	No change proposed.

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>restricted this to 70% TCI to prevent the developer getting preferred RSL partners to compete against each other in a bid to save money. Specifying a formula offers more certainty at the outset for a developer and can be included in the s106.</p>		<p>the units delivered can be provided, this funding will be at an agreed level for all RLSs.</p> <p>Where grant is available it will be provided at a percentage of the TCI/grant level {e.g. at a percentage of TCI (while still available) minus the maintenance and management costs of the units for an agreed period of time}, this figure can be established where grant is available and set out for all RSLs.</p> <p>As TCI's are being withdrawn the actual land and build costs will need to be used to determine a fair grant level. Rother has an established RSL team and will define the build costs and working arrangements with its RSL partners. Other RLSs will not be supported to access Housing Corporation funding if they are not agreed partners in Rother for these schemes.</p>	
<p>28. Re para. 7.18 (funding): Where there is no public funding for the affordable units, the SPD should clarify whether an increased proportion of shared ownership units (compared to the proportion sought when grant is available) will be accepted to provide a cross-subsidy.</p>	<p>Wealden District Council (officer view)</p>	<p>Tenure mix is determined as set out in paragraphs 7.12 and 7.13 of the draft SPD (as proposed to be amended – see response to comment 25). Paragraph 8.6 confirms that opportunities to alter this will only be considered where a viability assessment has demonstrated that 40% provision will make the development unviable. Further reference in the SPD is not considered necessary. [Also see response to comment 27 and 34 re funding and cascade agreements]</p>	<p>No change proposed.</p>
<p>29. Re para 7.19 – 7.24 (management and transfer arrangements): Do you specify the max. number of private units that can be occupied before the affordable land/units have been transferred to the RSL? Maybe</p>	<p>Wealden District Council (officer view)</p>	<p>The timing of the transfer of the units/land to the RSL will be dealt with in the s106. The detailed arrangements may vary from site to site although developers should expect to complete no</p>	<p>Amend the second bullet point of paragraph 7.30 as follows;</p> <ul style="list-style-type: none"> • Timing of the construction/occupation of the affordable units relative to the rest of the site. <i>Developers should</i>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
you do this in the s106? WDC limit it to 25%.		more than a third of the market houses before the affordable housing is transferred to the RSL or managing body. A reference to this effect in the SPD is considered worthwhile.	<u>expect to complete no more than a third of the number of market dwellings ahead of the transfer of the affordable dwellings to the managing body (usually a RSL.) Developers should therefore anticipate that the Council will closely monitor the occupation of the market housing and will take firm legal action if the specified proportion is exceeded, even marginally. Such action could include Injunction Proceedings.</u>
30. Re paras. 7.25 – 7.28 (design issues): We welcome the guidance, particularly the requirements for pepper-potting, on-site provision and design. The requirement for grant funded units is eco homes very good standard plus minimum Housing Quality Indicators current for each bid round.	Housing Corporation	Comments noted. The Eco Homes Standard and the Housing Corporation Scheme Development Standards (which incorporate the Housing Quality Indicators) are referenced at paragraph 7.27 of the draft SDP.	No change proposed.
31. Re para. 7.27 (design issues): All units, regardless of grant availability, should be expected to be built to eco homes, lifetime homes, Scheme Development Standards and, possibly, the RSL's own design brief.	Wealden District Council (officer view)	Comment noted and reflected at paragraph 7.27 of the draft SPD.	No change proposed.
32. Re para 7.29 (s106): It would be appropriate to refer to 'all planning permissions' rather than 'developments'.	East Sussex County Council (officer view)	Agreed	Amend para. 7.29 as follows; A section 106 legal agreement will be required for all <u>developments planning permissions</u> which provide affordable housing, including outline applications.
33. Re para. 7.29 (s106): In the event of off-site provision, the planning permission may either be subject to a common s106 agreement or separate, but related, legal agreements.	East Sussex County Council (officer view)	Noted	No change required.
34. Re paras 7.29 – 7.32: (s106): The maximum subsidy a developer makes in providing affordable housing is to reduce the land value for the affordable housing to nil. All development costs incurred in	McCarthy and Stone (Developments) Ltd.	Re subsidy levels: paragraph 7.18 of the draft SPD states that in the absence of public funding, the developer will normally be required to design and build the requisite units and provide fully	Add a new paragraph after paragraph 7.30 to read as follows; <u>7.30a Where a lack of certainty over the availability of public funding for the</u>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>constructing the affordable housing must be covered by the receipt gained by the affordable housing provider (<i>an RSL usually</i>). A 'cascade' arrangement within a s106 agreement can be used to take into account changes in public funding over the delivery of a housing permission. The application of affordable housing requirements should be sufficiently flexible to deal with changing circumstances and must be reflected in the SPD.</p>		<p>serviced land at no cost to the RSL. It also states that RSLs may be able to contribute towards a proportion of the build costs but not to land costs. It is considered that reference to the potential use of cascade arrangements would be a useful addition to the SPD. [See also response to comment 27 re funding]</p> <p>It is also of note that the Government's Model Planning Agreement stipulates access and servicing requirements for the affordable housing (also see response to comment 55).</p>	<p><u>affordable housing element of a scheme is significant to the determination of an application, the inclusion of a cascade arrangement in the s106 to take account of alternative funding scenarios may be considered.</u></p>
<p>35. Re para 7.30 (s106): WDC has found for large land releases that, in practice, a deal between the developer and a RSL is not done until after planning consent is granted. In Wealden it has not always been possible to include named RSL in s106s, although such certainty is encouraged.</p>	<p>Wealden District Council (officer view)</p>	<p>Comment noted.</p>	<p>No change proposed.</p>
<p>36. Re para. 7.32 (s106): Reference should be made to the possibility of pooling contributions for use elsewhere in the district to avoid collecting a large number of relatively small contributions which cannot be applied.</p>	<p>East Sussex County Council (officer view)</p>	<p>The Model Agreement refers to the repayment of in lieu financial contributions after 5 years. In view of the possible need to pool contributions, as referred to in the respondent's comment, a reference to the omission of this particular clause in the Model Agreement is proposed.</p>	<p>Add the following after paragraph 7.32: <u>7.32a Where a financial contribution is agreed, the provision in paragraph 3 of schedule 5 of the Model Planning Obligation requiring repayment after 5 years will be omitted. Contributions from a number of sites often need to be packaged to achieve a viable affordable housing scheme which may not be possible within a 5 year period.</u></p>
<p>Section 8: Viability test</p>			
<p>37. The residual approach to assessing viability (appendix D) is a useful basis for negotiation but should be presented as an <u>indication</u> of the Council's approach rather than restricting it to a specific approach. Residual land valuations can be</p>	<p>East Sussex County Council (officer view)</p>	<p>Comment noted re the residual approach. It is envisaged that there will need to be liaison between the Council's professional advisor and the developer with the objective of coming to an</p>	<p>Add the following to the end of paragraph 8.4 <u>The costs used in such as assessment should be reasonable costs adopted by the development market and not</u></p>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>susceptible to variation in cost and value assumptions (Inspector's Report para. 6.24). I suggest the District Council consider using some form of dispute resolution mechanism as part of a process which will be subject to a great deal of variability and subjectivity.</p>		<p>agreement on a reasonable financial appraisal for the site. This is considered consistent with the respondent's suggested approach. It is suggested that paragraph 8.4 of the draft SPD be expanded to explain this point. (also see response to 40 below)</p>	<p><u>necessarily specific to the developer concerned. The financial information will be assessed for the reasonableness of the assumptions made as well as any omitted or inaccurate information. Where practicable, the aim will be for officers (or their advisors) and the applicant to agree a reasonable financial appraisal for the site.</u></p>
<p>38. The District Council will be sensitive to the issue of the timing of the delivery of the market housing in a scheme relative to the affordable housing and the impact this may have on viability.</p>	<p>East Sussex County Council (officer view)</p>	<p>The timing of the provision of the affordable houses relative to the market ones will be agreed in negotiation with the Council (and confirmed in the s106). This agreed position will be reflected in the cost of finance section of the appraisal in terms of cash flow and therefore does not need to be drawn out specifically in the proforma.</p>	<p>No change proposed.</p>
<p>39. Support the Council's acceptance that in some cases the provision of 40% affordable housing could render developments unviable and as such a lower percentage would be acceptable.</p>	<p>Croudace Strategic Limited</p>	<p>Support noted, although evidence to the Local Plan Inquiry suggested that the 40% requirement would be unlikely to prevent the majority of sites coming forward.</p>	<p>No change proposed.</p>

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>40. The Council must acknowledge that developers require different profit margins when determining the viability of developments, landowners having differing aspirations when agreeing to release land and the state of the housing market also influences whether a scheme is viable or not. The Council should therefore avoid applying a universal profit margin percentage when considering the viability of a scheme.</p>	<p>Croudace Strategic Limited</p>	<p>It is understood that profit margins will vary according to the circumstances of both the site and the proposed developer and the housing market at the time. However, the role of financial assessment will be specifically to reveal the reasonableness of all the assumptions made in the submitted appraisal relative to the development market. It is envisaged that there will need to be liaison between the Council's professional advisor and the developer with the objective of coming to an agreement on a reasonable financial appraisal for the site. It is suggested that paragraph 8.4 of the draft SPD be expanded to explain this point. (Also see response to comment 37 above). Paragraph 8.1 of the draft SPD notes that developers are expected to take account of affordable housing requirements when negotiating the purchase of sites.</p>	<p>Add the following to the end of paragraph 8.4</p> <p><i><u>The costs used in such as assessment should be reasonable costs adopted by the development market and not necessarily specific to the developer concerned. The financial information will be assessed for the reasonableness of the assumptions made as well as any omitted or inaccurate information. Where practicable, the aim will be for officers (or their advisors) and the applicant to agree a reasonable financial appraisal for the site.</u></i></p>
<p>41. Whilst it is important to consider both the residual values for the proposed use and any existing use, it may also be necessary to consider alternative uses as well, including for development which may not qualify for affordable housing provision. In this way the impact of planning policy on the economics of development will be assessed.</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>The purpose of the assessment is to test the financial viability of the submitted scheme (where it is questioned by the applicant on the basis of 40% affordable provision). It is of course at the applicant's discretion to explore alternative uses and submit an application accordingly.</p>	<p>No change proposed.</p>
<p>42. The costs used in such an assessment should be generic and not specific to the developer concerned. Planning permission runs with the land, not the applicant. It is important for any viability assessment to reflect this.</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>See response to 40 above.</p>	<p>See recommended change at 40 above.</p>

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>43. Any information unique to the developer should be maintained out of the public domain and not subject to the Freedom of Information Act. The commercial confidentiality of any information must be protected. If members have competing interests with those of developers then information cannot be disclosed to them, even if that information is retained outside the public domain.</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>Paragraph 8.7 of the draft SPD specifies that there is provision in the Freedom of Information Act to keep commercially sensitive information free from disclosure and also that Members will be advised of the implications of the financial evidence but the information itself will not be reproduced in committee reports. However, Freedom of Information is not optional and public interest may require disclosure. Members with an interest relevant to the consideration of a planning application are required to declare their interest and withdraw.</p>	<p>No change proposed.</p>
<p>Section 9: Off-site provision</p>			
<p>44. My Council is concerned about the possible 'off-site' provision of affordable units. Whilst this will only be permitted in exceptional circumstances, it would result in an unacceptable segregation of between low-cost provision and general market housing.</p>	<p>Heathfield & Waldron Parish Council (adjoins RDC boundary)</p>	<p>In line with the respondent's view, the draft SPD (paragraphs 7.7 and 9.1) reflects the preference for on site provision as expressed in Government guidance in order to help deliver mixed and balanced communities. Off site provision will only be acceptable in exceptional circumstances.</p>	<p>No change proposed.</p>
<p>45. Re para. 9.4 (re. amount of affordable housing provided off-site): The provision of off-site affordable housing should be directly related to the proposed level of market housing on site and therefore should be the same level of provision (i.e. 40%) should be applied to both on-site and off-site provision to avoid double counting. The example in para. 9.4 is mathematically incorrect and serves to illustrate this convoluted approach. There is no national planning policy framework to support such an approach and could not be robustly supported by the Council in the event of a challenge through the development control process.</p>	<p>Croudace Strategic Limited.</p>	<p>The suggested approach to the off-site provision outlined in para. 9.4 was a recommendation of the Local Plan Inspector. The outcome of this approach is that, of the new housing provided, 40% will be affordable as required by Policy HG1. The required policy percentage is achieved, whether the affordable housing is provided on-site or off-site.</p>	<p>No change proposed.</p>
<p>46. The SPD requires a greater provision of</p>	<p>McCarthy and</p>	<p>The suggested approach to the off-site</p>	<p>No change proposed.</p>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>affordable housing when the parent development is unable to accommodate on-site provision. For certain types of development this may be seeking a share in the profits of development which Circular 05/05 refers to as 'betterment'. A planning obligation on this basis would fail the tests of the Circular. The only instance where this may be acceptable is where the affordable housing contribution itself is so large that that to seek it on one site (i.e. greater than 15) then that site would qualify for provision in its own right if it had been developed in the normal way. Any off site contribution (provision of units or commutation) should be equivalent to the subsidy that would be made if the affordable housing had been provided on site.</p>	<p>Stone (Developments) Ltd.</p>	<p>provision outlined in para. 9.4 was a recommendation of the Local Plan Inspector. The outcome of this approach is that, of the new housing provided, 40% will be affordable as required by Policy HG1. The required policy percentage is achieved, whether the affordable housing is provided on-site or off-site. It is not accepted that the approach results in 'greater' provision as the proportion of affordable housing achieved is still 40%. Equally the purpose of the approach is not to secure for the community a proportion of the profits of the development i.e. a 'betterment levy' (paragraph B7 of Circular 05/05).</p>	
<p>47. Re para. 9.4: bearing in mind the potential alternative methods of provision, the example in paragraph 9.4 should simply refer to a requirement for 40 dwellings.</p>	<p>East Sussex County Council (officer view)</p>	<p>The wording of the example can be amended to be entirely consistent with paragraph 9.5 (as revised – see response to comment 48 below)</p>	<p>Amend the example in paragraph 9.4 as follows:</p> <p>Example: A scheme of 60 dwellings would be required to provide 24 (40%) affordable units on-site. If off-site provision is accepted, the 'original' site will deliver 60 market houses. In order to meet the 40% requirement of the policy, and retain the 3:2 (60% : 40%) ratio of general market to affordable housing, the requirement for the second site will be <u>provision elsewhere will be</u> for 40 affordable dwellings.</p>
<p>48. Re paras 9.5 – 9.6: This is presented as two preferences but is actually three. The test should be amended to reflect this. Also, where existing properties are to be purchased, the SPD should refer to the</p>	<p>East Sussex County Council (officer view)</p>	<p>The wording of paragraph 9.5 can be amended to ensure that the order of preferences is absolutely clear and that the identification of the existing properties to purchase and any upgrade</p>	<p>Amend paragraph 9.5 as follows:</p> <p>For off-site provision, the Council's first preference will be for the applicant to either provide the requisite <u>number of</u></p>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
<p>need to upgrade these properties to RSL standards. The SPD should also outline how RDC will determine how such properties will be identified.</p>		<p>requirements to meet RSL standards will be agreed between the developer, RSL and Council.</p>	<p>affordable units <u>elsewhere</u>. <u>This may either be new build units</u> on an identified (second) site or to <u>by the purchase of</u> the same number of existing properties. <u>The identification of the existing properties to purchase, and any upgrade requirements to meet the requirements of the RSL, will be agreed between the developer, the RSL and the Council.</u></p>
<p>49. Whilst the presumption for on-site provision may be considered in line with government guidance, there are considerations the authority must undertake in drafting policy (see Circular 6/98 and PPG3) and these should be referenced. The circumstances where affordable housing cannot be accommodated on site must be clearly and unambiguously defined.</p>	<p>McCarthy and Stone (Developments) Ltd.</p>	<p>The considerations referred to relate to the drafting of <u>policy</u> and therefore do not need elaboration in this SPD. The draft SPD clearly states that the presumption will be for on-site provision. The acceptability of in lieu contributions will be considered on a case by case basis with applicants expected to demonstrate why on-site provision cannot be achieved satisfactorily (paragraph 9.2 of the draft SPD).</p>	<p>No change proposed.</p>
<p>50. (re para. 9.7 re calculation of in lieu contributions) This is an inappropriate methodology as the Housing Corporation stopped supporting the use of TCIs and providing updates to the tables.</p>	<p>McCarthy and Stone (Developments) Ltd</p>	<p>In response, it is suggested that the SPD refers to TCIs or their replacements or, in their absence, in lieu contributions will be calculated based on currently land and build costs in the vicinity of the application site. In addition, there is an apparent anomaly in the approach taken to the calculation of in lieu contributions relative to that used for off-site provision. An amendment is suggested to clarify that the total number of general needs houses that will result will be used to calculate the number of affordable houses for which in lieu contributions will be sought. This will ensure that the approach for in lieu contributions is consistent with that for off-site provision of the affordable houses.</p>	<p>Amend paragraph 9.7 as follows; 9.7 The in-lieu contributions will be calculated based on:</p> <ul style="list-style-type: none"> • The number of units that will need to be provided to comply with the 40% requirement of the policy (see paragraph 9.3) <u>The number of units will be calculated using the same approach as for off-site provision(see paragraph 9.4) i.e. by taking account of the total number of market houses that will be provided on the principal site.</u> • The latest available Total Cost Indicators (TCIs) for Rother (inflated if necessary to accord with Housing Corporation guidance) <u>or their replacement. In the absence of TCIs (or their equivalent) current land and</u>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
			<p><u>build costs for the locality will be used.</u></p> <ul style="list-style-type: none"> The mix of affordable unit sizes which would have been required, had the affordable housing been provided on the application site, will be used as a basis for the calculation. TCIs usually make an allowance for RSLs being able to raise an element of private finance themselves.
51. Re paras. 9.7 – 9.8: The calculation for in-lieu contributions could be summed up with a simple equation.	Wealden District Council (officer view)	In view of the refinement to the approach suggested in response to comment 50 above, the details of the calculation cannot clearly be shown with a simple equation	No change proposed (also see response to comment 50 above)
Section 10: Exceptions Sites			
52. Given the limited quantity of actual and potential development land in Rye parish, it is difficult to see how an exceptions site could be identified and then its allocation justified.	Rye Town Council	Comment noted. The principle unpinning the exceptions site policy is that sites are brought forward for 100% affordable housing which would not normally be released for general needs housing. This approach is justified where there is an identified local need for affordable housing.	No change proposed.
53. HPC is developing a rural exception scheme in partnership with Tunbridge Wells Borough Council and Orbit HA. The Local Plan exceptions site policy has strict tenancy criteria for exceptions sites which form part of the s106 agreement.	Hawkhurst Parish Council (adjoins RDC boundary)	Comments noted. For an exception site, the Council will require the inclusion of a local lettings policy with strict tenancy criteria within the s106 legal agreement.	No change proposed.
54. Had the conditions outlined in this section been in force when the Tollgates development occurred in Staplecross, the sustainable amount of low cost and affordable housing stock in the parish would be in a better state. Section 10 and Policy HG2 provide a clear and credible way forward for the need for affordable	Ewhurst Parish Council	Comments noted.	No change proposed.

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
housing to be included in the emerging Ewhurst Parish Local Action Plan.			
Appendix C: draft s106 Planning Agreement			
55. Circular 05/05 (para. B36) encourages local authorities to use standard head of terms, agreements/undertakings or model clauses where possible in the interests of speed.	East Sussex County Council (officer view)	Since the draft SPD was published, the Government has produced a Model Planning Agreement (s106) which it encourages local authorities to use. It is proposed to adopt the use of this agreement, with necessary additions and refinements to secure the Council's position in respect of the provision of affordable housing.	Amend paragraphs 7.29 to 7.32 and paragraph 10.7 of the draft SPD to refer to the Model Planning Agreement. Delete the draft s106 in Appendix C and replace with an appendix which sets out the Council's Nomination agreement.
56. Re para. 3.1.6 of Appendix C: The issues of the affordable units having access to a highway, electricity, gas, water, telecoms and mains drainage could be dealt with by condition rather than legal agreement. Enforcement of conditions does not involve private contractual action in the Courts.	East Sussex County Council (officer view)	See response to comment 55. It is noted that enforcement of such conditions would be very difficult once the developer has left site.	See response to comment 55

Responses received after the deadline

SECTION OF SPD/ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
General Comments			
57. <i>It is felt that the proposals have no teeth and would probably result in little progress being made towards RDC meeting its targets for affordable housing. For instance, the 'get out' clause regarding non-viability could be more strictly applied on developers. The Parish Council feels that nothing will change unless there is an obligation on the District Council to push through its recommendations and encourage local landowners to provide land for housing associations to build affordable housing.</i>	Northiam Parish Council	<i>Comments noted. Having adopted Local Plan policies for affordable housing provides clear basis upon which the Council will require affordable housing on a greater number of development sites than previously, particularly in the rural areas. The viability assessment is a necessary assessment methodology to ensure that the 40% requirement does not render otherwise viable development uneconomic. In addition, a pro-active approach to the bringing forward of exception sites, an</i>	<i>No change proposed</i>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

SECTION OF SPD/ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
		<i>initiative under current consideration by the Council, could go some way to the pro-active approach urged by the Parish Council</i>	
Section 6: When does Policy HG1 apply?			
<i>58. Lowering the number of units able to be built without providing affordable housing would help, particularly in a village like Northiam where historically small developments take place. In some villages a ratio of 1:1 is applied. It is necessary to provide work and housing opportunities for young people within Rother's villages to prevent them leaving and becoming commuter/retirement centres with no heart. It is perceived that the majority of housing grants which could help the situation go to urban areas.</i>	<i>Northiam Parish Council</i>	<i>The site size thresholds for requiring affordable housing are set in Policy HG1 and cannot be altered through this SPD. The success of the policy in delivering affordable housing in the rural areas will be reviewed as part of the monitoring of the Local Plan. Furthermore there is the opportunity to bring forward more rural affordable housing through the exceptions route set out in Policy HG2. Grant is prioritised for certain areas by the Housing Corporation. Rural areas are a Housing Corporation priority, however, schemes including affordable housing come forward more in urban areas. If appropriate sites are identified in rural areas, grant can be accessed to deliver them.</i>	
Section 7: Key issues for planning applications			
<i>59. Re paras. 7.2 – 7.6 (pre-application discussions): Whilst the Council may prefer the affordable housing details to be established before an application is submitted, if this delays the submission of an application or the developer considered the affordable housing requirements unacceptable, and there are uncertainties regarding the availability of public subsidy, this criteria may not be met. We would like clarification that the Council has sufficient resources available to support this requirements for pre-application discussion</i>	<i>Home Builders Federation</i>	<i>The benefit of pre-application discussion can be for both the developers and the Council with the outcome of, hopefully, making the application process more straightforward as issues can be addressed prior to the submission. It is accepted that there will be cases where all factors may not be resolved prior to submission, but it is considered that the value of promoting pre-application discussion is still valid. The Council's adopted Statement of Community Involvement confirms its commitment to pre-application discussions.</i>	<i>No change proposed</i>

Summary of Issues raised and responses to Rother District Council's draft Affordable Housing SPD

SECTION OF SPD/ISSUE RAISED	RAISED BY	OFFICERS' RESPONSE	SUGGESTED CHANGE TO SPD
60. Re paras. 7.21 – 7.22 (re preferred partners): Reference to the Council's 'preferred partners' should be deleted. Developers should be free to select their own RSL partners. Circular 6/98 (para. 17) states that "local planning authorities should not prescribe which partners developers should use to deliver affordable housing".	Home Builders Federation	Para. 7.22 of the SPD makes clear that developers can choose an RSL which is not one of the Council's preferred partners. In such circumstances the Council will need to be satisfied that satisfactory management arrangements are in place. In the cases of the preferred partner RSLs, these arrangements are already known to be in place.	No change proposed.
61. Re para. 7.27 (re design standards): The requirement for the affordable units to accord with Ecohomes and Lifetime Homes standards is new policy, not supplementing a policy in the Local Plan, and should be deleted.	Home Builders Federation	The design standards are a specific requirement related to the details of affordable housing delivery. As such they are most appropriately incorporated in supplementary guidance rather than as policy. Furthermore, there will be no prospect of Housing Corporation grant funding for the development if these standards are not met. Irrespective of the grant issue, an RSL is also unlikely to be willing to manage units not meeting Housing Corporation standards.	No change proposed.
Section 8: Viability test			
62. Authorities can seek to negotiate with developers but cannot expect or require an appraisal. Different developers and development schemes will operate to different costs and profit and it will be difficult for a third party to comments on what is and what is not financially appropriate.	Home Builders Federation	Financial information is only sought where the developer proposes not to provide 40% affordable housing as required by Policy HG1. The information is therefore required to enable developers to substantiate their position. See also responses to comments 40 and 42.	No change proposed
Appendix C: draft s106 Planning Agreement			
63. References in the model agreement to named RSL with an existing presence and Lifetime homes should be deleted.	Home Builders Federation	See responses to comments 60 and 61 and also 55 re the government's Model Planning Obligation (s106).	See response to comment 55.