

**DRAFT**

**AFFORDABLE  
HOUSING**

**SUPPLEMENTARY  
PLANNING DOCUMENT (SPD)**

# FOREWORD

The delivery of genuinely affordable housing, and social rent homes in particular, is an immensely pressing priority in Southwark, and one which underpins the Southwark Plan and our requirements from those who want to invest in our borough.

With over 17,500 households on our own waiting list, and with many others struggling to find affordable properties to rent or buy, it is imperative that the council and its partners work tirelessly to find solutions and remain committed to maximising affordable housing through development. I am delighted that Southwark is leading the way in London on social rent, with 550 completions, the most in any London borough in 2023-24. But we still have much more to do in order to meet demand and this SPD sets out more detail on how our Southwark Plan policies can be implemented, including in relation to small sites and student accommodation. The SPD also provides more detail on intermediate housing options including our aspiration in Southwark to deliver Keyworker Homes and Community Land Trusts.



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Southwark Council

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# **CHAPTER 1**

## **INTRODUCTION**

# 1. INTRODUCTION

This section provides an overview of the Affordable Housing Supplementary Planning Document. It sets out how this guidance should be used and who should be using it.

This SPD replaces the Affordable Housing SPD (2008) and draft Affordable Housing SPD (2011) and incorporates changes in national, regional and local policies. This SPD should be read alongside the council's Development Viability SPD (2016) and Draft Section 106 and CIL SPD (2024) (Subject to consultation).

## 1.1 Overview

The purpose of this Supplementary Planning Document (SPD) is to set out the council's approach to delivering affordable housing. This is a key objective of the Southwark Plan 2022, outlined in strategic policy SP1 'Homes for all'.

Southwark requires more affordable housing to meet the needs of all residents and to achieve the Council's strategic policies. This was established in the [Strategic Housing Market Assessment \(SHMA\) 2019](#). The SHMA demonstrated the local need for more affordable housing, both social rented and intermediate.

The purpose of this SPD is to:

- Support the implementation of Southwark Plan 2022 strategic policy SP1 'Homes for all'
- Provide clear definitions of what is considered affordable housing
- Set out the hierarchy for the delivery of affordable housing, including for small sites and non-conventional housing
- Set out the Council's approach to assessing viability during the determination of planning application and in viability reviews
- Set out the standards for the housing mix and tenure of affordable housing
- Set out the expectations for the design and management of affordable housing
- Set out monitoring arrangements to retain affordable housing

## 1.2 What development does this SPD apply to?

This SPD applies to all housing development (including new build, change of use, conversions and extensions) with a policy requirement for affordable housing. It provides detailed guidance about how decisions on planning applications will be made.

This includes:

- Social rented housing
- Intermediate housing
- Key worker housing
- Small sites development
- Self and custom build development
- Community Land Trusts (CLTs)
- Purpose built student accommodation
- Houses in Multiple occupation (HMOs)
- Wheelchair accessible housing

## 1.3 Policy context

This SPD provides guidance for applying the policies in the Southwark Plan 2022. It does not contain new policy. The SPD is a material consideration in the determination of a planning application.

The Southwark Plan 2022 together with the London Plan 2021 is the development plan for Southwark. The Southwark Plan 2022 is in conformity with the London Plan 2021 and the National Planning Policy Framework (NPPF) 2023.

### 1.3.1 National policy

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

The National Planning Policy Framework (NPPF) requires local planning authorities to formulate planning policies to meet the needs of different groups in their local area, including people who need affordable housing. These policies should specify the type of affordable housing required.

### 1.3.2 Regional policy

#### *The London Plan 2021*

The London Plan 2021 provides the regional spatial development framework for London and outlines policy principles for affordable housing. This is set out in the planning policies and associated London Planning Guidance (LPG) and Supplementary Planning Guidance (SPG) documents.

The London Plan 2021 contains the following relevant policies:

- D6 Housing quality and standards
- D7 Accessible housing
- D8 Public realm
- H4 Delivering affordable housing
- H5 Threshold approach to applications
- H6 Affordable housing tenure
- H7 Monitoring of affordable housing
- H8 Loss of existing housing and estate redevelopment
- H10 Housing size mix
- H11 Build to rent
- H13 Specialist older persons housing
- H15 Purpose-built student accommodation
- H16 Large-scale purpose-built shared living

Other relevant policy documents are:

- Affordable Housing and Viability SPG (2017)
- Affordable Housing LPG (draft 2023)
- Development Viability LPG (draft 2023)
- Housing Design Standards LPG (2023)
- Housing SPG (2016)

### 1.3.3 Local policy

#### *Southwark Plan 2022*

The Southwark Plan 2022 contains multiple relevant policies, for which this SPD provides further guidance:

- SP1 Homes for all
- P1 Social rented and intermediate housing
- P2 New family homes
- P4 Private rented homes
- P5 Student homes
- P6 Purpose-built shared living
- P7 Housing for older people
- P8 Wheelchair accessible and adaptable housing
- P9 Houses in multiple occupation
- P15 Residential design

Other relevant policy documents are:

- 2015 Technical Update to the Residential Design Standards (2011)
- Development Viability SPD (2016)
- Section 106 and CIL SPD (2015, updated 2020)
- Draft Section 106 and CIL SPD (2024) (Subject to consultation)

#### *Area Action Plans (AAPs)*

- Draft Old Kent Road Area Action Plan (2020)



# **CHAPTER 2**

## **AFFORDABLE HOUSING DEFINITIONS**

## 2. AFFORDABLE HOUSING DEFINITIONS

This purpose of this chapter is to explain what the council recognises as affordable housing. The framework is set out in the Southwark Plan 2022, which has the strategic objective of providing new homes in the borough, more of which should be affordable.

Under policy P1 of the Southwark Plan 2022 ‘Social rented and intermediate housing’, two types of affordable housing are acceptable:

- **Social rented housing:** This is housing at rental levels determined through the rent regime. This is set annually and is usually based on the government’s guideline rent formula.
- **Intermediate affordable housing:** This is housing sold at prices or subject to rents higher than those of social rented but below private housing prices or rents.

Social rented and Intermediate affordable housing is made available from the council, a registered provider or other affordable housing provider.

The London Plan 2021 sets the framework for household income thresholds for social rented and intermediate housing. These are based on average household incomes and average house prices across London and are updated annually. Households earning above these income thresholds are not eligible for affordable housing.

Table 1 outlines the affordable housing which the council considers to meet the genuine needs of our residents. Full definitions are in sections 2.1 and 2.2.

Table 1: Genuinely affordable housing

<b>Social rent</b>	<b>Accepted</b>
<b>Shared ownership</b>	<b>Accepted</b>
<b>London Living Rent</b>	<b>Accepted</b>
<b>Key worker housing</b>	<b>Accepted</b>
<b>Community Land Trusts (CLTs)</b>	<b>Accepted</b>
<b>Discount market sale</b>	<b>Accepted</b>
London Affordable Rent	NOT accepted
Affordable rent	NOT accepted
Discount market rent	NOT accepted

## 2.1 Social rented housing

Social rented housing is typically most needed by households on lower incomes who cannot afford to pay market prices for suitable housing.

To be considered social rented housing, it must:

- Fix rents for properties let at '**social rent**'. This is set by the [Regulator of Social Housing](#).
- Fix rents and service charges which should not exceed 40% of net household income.
- Determine access to social housing on housing need; and
- Provide in perpetuity (unless purchased through Right to Buy) to ensure that all homes remain permanently, solely and exclusively available to meet the identified social rented housing need.

## 2.2 Intermediate Housing

The intermediate sector plays an important role in filling the gap between the social and affordable rented sectors and the open market. Households below certain income thresholds may not necessarily be able to afford to buy or rent suitable and satisfactory housing in Southwark but may be eligible for intermediate housing.

The council considers the following intermediate housing to meet the genuine needs of our residents:

### **Shared ownership**

This involves homes which are part-owned and part-rented. Buyers purchase an initial share of at least 25% and can 'staircase' to full ownership. This means they can buy more shares over time until they own the property outright. Rent is paid on the part-rented share and is subject to caps below the market level.

Households with incomes of between £60,000 and £90,000 have needs that can be met through Shared Ownership homes (provided the market value of a Shared Ownership home does not exceed £600,000).

## **London Living Rent**

London Living Rent is a type of 'genuinely affordable' housing funded by the Mayor. London Living Rent is designed to help people transition from renting to shared ownership.

London Living Rent homes will be offered on tenancies of a minimum of three years. By offering a below-market rent, tenants are supported to save money and given the option to buy their home on a shared ownership basis during their tenancy.

The GLA publishes benchmark London Living Rent levels for every neighbourhood in the capital, updated annually. These are based on a third of average local household incomes and adjusted for the number of bedrooms in each home. To ensure family-sized London Living Rent homes are affordable, the rent for a 3-bedroom home will be set at no more than 10% above the 2-bedroom rent.

There is flexibility to allow for rents to be set below the GLA benchmark. Rent levels must not exceed the benchmark, however, at the time of each new tenancy.

## **Key Worker Housing (KWH)**

This is rental housing which is only available to those employed in recognised key worker occupations (the full definition of key workers is provided in fact box 1).

Key workers perform essential work and are critical to many important services in the borough and in London. Key workers need to live a reasonable distance to their place of employment to ensure these services run efficiently. Many keyworkers are unable, however, to secure housing on the private market and face long waiting times for social rented homes.

The KWH is based on tenancies of 2-5 years. The housing must remain available as key worker housing in perpetuity. A marketing and management plan is required for KWH as a condition of the planning permission.

To access GLA affordable housing grant funding, KWH should be provided at rent levels (including service charge) equivalent to those defined at the maximum benchmark 'London Living Rent' for each London neighbourhood.

As well as current occupation, the tenancies are subject to additional eligibility criteria. The whole household (which can be formed of two or more unrelated households or sharers) must not have a maximum combined gross income exceeding £90,000; and minimum combined income of £26,000. These thresholds will be reviewed annually.

Members of the household must also not be an existing homeowner, unless the current property is unsuitable and the household is unable to buy in the private market. Examples of a property being unsuitable include, but are not limited to; overcrowding, being unaffordable or it being unable to meet accessibility requirements.

Tenancies can be monitored to ensure ongoing compliance with KWH criteria. Additional eligibility criteria may also be set by the council where necessary.

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### **Fact box 1: Key workers occupations**

The Council's definition of key workers has been produced based on evidence of recruitment and retention issues in Southwark. It follows the GLA's definition of essential workers but has been tailored to reflect specific conditions in Southwark.

The following occupations will be considered key workers:

- Nurses, doctors, and other clinical staff employed by NHS
- Firefighters
- Teachers/teaching assistants (from non-fee charging schools)
- Social workers, educational psychologists and therapists delivering services for the Council
- Police officers/Police Community Support officers (PCSO).

### **Community Land Trusts**

Community Land Trusts (CLTs) are recognised within the Southwark Plan 2022 as provider of intermediate affordable housing.

Community Land Trusts (CLTs) are non-profit organisations that own and develop land for the benefit of the community. CLTs encourage the involvement of community-led housing organisations who are looking to create permanently affordable housing to meet local housing needs.

Where a CLT will propose to deliver genuinely affordable homes, we will require that they remain affordable in perpetuity.

All community-led development schemes must demonstrate how they will be managed and financially viable over the long-term. The schemes must also set out how the homes will benefit the local community and how these benefits can be retained in perpetuity.

### **Discount market sale**

This is housing which is for sale at least 20% below open market equivalent. The discount should be sufficient to ensure the homes are affordable or accessible to those with household incomes within the GLA thresholds. Discount market sale homes are restricted to eligible households and should remain affordable in perpetuity..

## **2.3 Not accepted affordable housing**

The council does not consider the following housing to be genuinely affordable:

### **London Affordable Rent (LAR)**

London Affordable Rent levels are set by the GLA. These benchmarks are not genuinely affordable in Southwark and inner London. Therefore, the Council does not accept LAR as social rented or intermediate housing.

### **Affordable rent**

The Government defines 'affordable rent' as up to 80% of market rates. These rates are not genuinely affordable for Southwark residents. Therefore, the Council does not accept Affordable Rent as social rented or intermediate housing.

### **Discount market rent**

This is housing which is for rent at least 20% below open market equivalent. These rates are not genuinely affordable for Southwark residents. Therefore, the Council does not accept discount market rent as social rented or intermediate housing.

# **CHAPTER 3**

## **SECURING AFFORDABLE HOUSING**

# 3. SECURING AFFORDABLE HOUSING

The Southwark Plan 2022 policy P1 'Social rented and intermediate housing' sets out the council's approach to securing affordable housing contributions. This includes the thresholds for providing affordable housing as well as the contributions which are required. The amount of affordable housing required will be calculated by habitable rooms (see fact box 2).

There are different eligibility thresholds and requirements for providing affordable housing depending on the scale of development. This is split between developments creating 10 or more homes and developments creating 9 homes or fewer (inclusive). There are also different requirements for development located on public land, on Locally Significant Industrial Sites (LSIS) and in the Aylesbury Area Action Core.

The expectation is that affordable housing should be delivered onsite unless off-site provision or an appropriate financial contribution in lieu can be robustly justified. The agreed approach must also contribute to the objective of creating mixed and balanced communities.

Applicants are required to submit a viability assessment with their planning application to ensure that the maximum proportion of affordable housing is negotiated on each development. The council's approach to viability testing is set out in section 4 of this SPD.



## **Fact box 2: Habitable rooms**

A habitable room is defined as a room with a window within a dwelling that is intended to be used for sleeping, living or dining, regardless of what it is used for.

This definition is set out in the fact box under Southwark Plan 2022 policy P1 'Social rented and intermediate housing'. This excludes enclosed spaces such as bath or toilet facilities, corridors, landings, hallways, lobbies, utility rooms, and kitchens with an overall floor area of less than 11sqm.

Any floor area where the ceiling height is less than 1.5 metres will not count towards the habitable floorspace. Any room that is over 28 sqm will be counted as two habitable rooms, in line with the calculation set out in policy P1.



### 3.1 On-site delivery of affordable housing

The general presumption is that affordable housing should be provided on-site. This follows the council's hierarchy for the delivery of affordable housing.

The council will secure affordable housing in a legal agreement. This would normally cover the following issues:

- The total amount of affordable homes to be provided (by number of affordable housing units and number of habitable rooms)
- The tenure split between social rented and intermediate homes
- The location of the affordable homes within the development
- The size of the affordable homes
- Details of any affordable wheelchair units to be provided, including the amount, the tenure and the specific standards. Standards expected of wheelchair housing are set out in Policy P8 'Wheelchair accessible and adaptable housing'
- The affordability thresholds that apply. Housing will have to be provided in compliance with the criteria outlined in section 2.
- That no more than 50% of the market units within the development can be occupied before the affordable housing units are completed and handed over to the registered provider.
- Local authority nomination rights.
- Details on any potential service charges, where necessary

What is required will depend on what the council considers is necessary to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms i.e. is necessary, directly related to the development and fairly and reasonably related in scale or kind to the development in accordance with regulation 122 Community Infrastructure Levy Regulations 2010 (as amended).

## 3.2 Off-site delivery of affordable housing

In some cases, affordable housing may be delivered off-site. This is only considered acceptable when the affordable housing cannot be delivered on-site, and an appropriate location has been identified near to the proposed development.

Applicants must robustly justify off site affordable housing through an open book financial appraisal. This must provide a robust justification for off-site provision of affordable housing and how the approach contributes to the objective of creating mixed and balanced communities. Any financial benefit to the applicant due to off-site delivery will not be permitted.

Where off-site delivery of affordable housing is provided, this will be required in addition to any on-site affordable housing requirement the site would have been required to deliver itself (i.e. it must result in a net gain of affordable housing units).

To be considered off-site affordable housing for the main development, applicants must have secured planning permission prior to any occupation of the market housing on the main development. No more than 50% of the market units within the main development can be occupied before the affordable housing units off-site are completed and handed over to the registered provider.

### 3.3 Payments in lieu of affordable housing

#### Developments creating 10 homes or more

In exceptional circumstances, developments creating 10 homes or more may provide a financial contribution in lieu of delivering affordable housing on or off-site. The contribution must be based on the estimated cost of providing the required amount of social and intermediate housing on-site.

This will only be accepted where the payment in lieu can be robustly justified over on-site or off-site provision. This approach must also contribute to the objective of creating mixed and balanced communities. This is in accordance with the NPPF paragraph 64.

The payment in lieu should not provide a financial benefit to the applicant. This should be demonstrated by a viability assessment by showing the value of the site with and without the affordable element being provided. Applicants will also need to set out why the delivery of affordable on or off-site was not possible.

The following formula sets out the starting point for calculating payment in lieu contributions. This is in accordance with Policy P1 of the Southwark Plan 2022 which requires developments creating 10 homes or more to provide 35% minimum contribution towards affordable housing.

The final payment will be determined through the viability assessment process.

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#### **Fact box 3: Formula for payment in lieu per habitable room for developments creating 10 homes or more**

The formula for the payment in lieu per habitable room is:

*Number of habitable rooms × 0.35 (minimum provision) × £ per habitable room in the specific CIL value area.*

The specific value for each CIL zone is set out in the draft S106 and CIL SPD (2024).

### **Developments creating 9 homes or fewer (inclusive)**

Developments creating 9 homes or fewer (inclusive) may provide a payment in lieu. The financial contribution may be provided without needing to follow the Council's hierarchy for affordable housing delivery. This means applicant do not need to demonstrate why the delivery of affordable housing was not possible on or off-site, as required for major developments. Any contribution due will be determined in accordance with a viability assessment, as set out in section 4.3 of this SPD.

## **3.4 100% or mainly single tenure schemes**

The Council receives applications for developments that are predominantly affordable housing or 100% affordable housing. This helps to deliver a significant amount of new affordable homes.

A tenure split between social rented and intermediate applies to affordable housing schemes as set out in Policy P1.

In cases where the required tenure split cannot be provided, the applicant must demonstrate the need for the scheme and the specific tenure mix. This would need to be demonstrated as part of a viability appraisal.

In these cases, the Council would normally decide the appropriate tenure within the affordable housing by taking account of:

- The site location, and the existing levels of affordable housing on site and in the area
- The need to create a mix and choice of housing across the borough
- The proposed tenure and affordability
- The direct and indirect benefits to the wider community
- The objective of creating mixed and balanced communities.
- If a Community Land Trust, the demonstration of the wider benefits, not only the members of the CLT whom it serves.

Applicants are encouraged to engage with the council at an early stage in their preparation.

Table 2: Types of residential development which are liable for a financial contribution

Typology	Affordable housing contribution payable and method of calculation
Extension to the existing residential development that does not create any new unit(s)	<p><b>No requirement</b> to provide affordable housing under policy P1.</p> <p>No financial contribution.</p>
Converting two or more homes to one home (de-conversions)	<p><b>No requirement</b> to provide affordable housing under policy P1.</p> <p>No financial contribution, this is to be treated as a deconversion.</p>
Self-Build properties (unless the property is put on the market within three years of occupation)	<p><b>No financial contribution, unless</b> the property is put on the market for sale within 3 years of first occupation.</p> <p>The calculation of the affordable housing contribution, and a viability appraisal and a legal agreement will still be required.</p>
Change of use from a House in Multiple Occupation (HMO) (Sui Generis or C4) to a single C3 dwelling.	<p><b>No requirement</b> to provide affordable housing under policy P1.</p> <p>No financial contribution, this is to be treated as a deconversion.</p>
Extension to existing residential buildings to create additional new unit(s) (without conversion of the existing dwelling)	<p><b>Yes.</b> Calculate the affordable housing contribution on the basis of 35% of the habitable rooms of the entire development.</p>
New build construction of new dwellings on vacant land. These include infills and new dwellings in rear gardens	<p><b>Yes.</b> Calculate the affordable housing contributions on the basis of 35% of the habitable rooms of the entire development.</p>
Change of use and conversion to dwellings (including with extensions)	<p><b>Yes.</b> Calculate the affordable housing contributions on the basis of 35% of the habitable rooms of the entire development.</p>

Conversion / subdivision of existing dwellings without extensions	<b>Yes.</b> Calculate the affordable housing contribution on the basis of 35% of the habitable rooms of the entire development.
Demolition and the re-provision of additional unit(s)	<b>Yes.</b> Calculate the affordable housing contribution on the basis of 35% of the habitable rooms of the entire development.

# **CHAPTER 4**

## **VIABILITY ASSESSMENTS AND REVIEWS**

## 4. VIABILITY ASSESSMENTS & REVIEWS

The Southwark Plan 2022 policy P1 'Social rented and intermediate housing' sets out the Council's approach to viability. This is also set out in the GLA's Affordable Housing and Viability SPG (2017) and Council's Development Viability SPD (2016). The Council will apply the same viability approach to developments that create 9 homes or fewer (inclusive) as with developments of 10 homes or more.

This includes the two viability routes: the fast-track route or the viability tested route. The approach varies where developments of 9 homes or fewer (inclusive) can provide a financial contribution instead of delivering on-site or off-site affordable housing.

There are separate approaches for other types of residential such as self and custom builds and Community Land Trusts (CLTs).

### Submitting an application

An application going through the viability tested route will not be accepted as valid unless a complete financial viability assessment (and its public executive summary) has been submitted.

Applicants must meet the cost of the council reviewing any financial viability appraisals or provide a solicitor's undertaking to pay for an application requiring a financial viability appraisal.

Where a registered provider is delivering or taking on the affordable housing, their details and confirmation of their involvement should be provided in the application. The registered provider's requirements are expected to have been designed into the scheme and early engagement is encouraged.

The council offers a formal pre-application advice process which applicants are encouraged to use. This lets applicants discuss proposals with the council before submitting a planning application. This will help to make the planning process more efficient by allowing the identification and resolution of any potential issues before the application is submitted.



## 4.1 Fast-track route

Policy P1 of the Southwark Plan 2022 sets out that developments may follow the fast-track approach where eligible. This is underpinned by the London Plan 2021 policy H5 'Threshold approach to applications'.

Where developments follow the fast-track route, they will not be subject to a viability assessment. Viability assessments may be required however if amendments are made following the grant of permission. Legal agreements will also be used where necessary to cover other matters relating to affordable housing.

There are different eligibility thresholds for the fast-track route depending on the scale of development. This is split between developments creating 10 or more homes and developments creating 9 homes or fewer (inclusive). There are also different requirements for development located on public land, Locally Significant Industrial Sites (LSIS) and in the Aylesbury Area Action Core.

Schemes which are ineligible for the fast-track route must go through the viability tested route.

An Early-Stage review will be required for fast-track developments if an agreed level of progress has not been made in constructing the development. This would be triggered after two years of the permission being granted, or within a timeframe otherwise agreed upon. This is to ensure an applicant fully intends to build out the permission. Further guidance on review mechanisms is set out in section 4.5 of this SPD.

## 4.2 Viability tested route

Policy P1 sets out the requirement for viability assessments for developments not following the fast-track route. This applies to all developments not following the fast-track route, whether creating 9 homes or fewer (inclusive) or 10 homes or more. This is to ensure a maximum level of affordable housing is secured. A site-by-site assessment will be undertaken, taking account of individual circumstances of development viability.

Assessments must be published for public scrutiny and should identify the maximum amount of affordable housing (or financial contribution in the case of developments of 9 homes or fewer) which can be delivered. Assessments must be prepared in line with the Council's guidance, without which applications will not be made valid.

The applicant is required to meet the cost of the Council having the viability assessment reviewed. This includes any subsequent reviews, including if an application has been refused and is subject to an appeal. An application will be refused if the applicant fails to pay for the Council's review as this means the viability information cannot be assessed.

A Section 106 agreement or unilateral undertaking will be required to ensure the affordable housing contribution (plus the administration fee) is paid to the Council on implementation of the main development's residential units. Different triggers for payment may be agreed if found to be justified and supported by the Council's viability analysis.

Viability review mechanisms will also be required to ensure that affordable housing delivery increases if the viability of a site improves over time. Further guidance on review mechanisms can be found in section 4.5 of this SPD.

For smaller developments of 1-2 residential units, the council may impose a reduced time limit on implementing planning permission. This can remove the need for subsequent viability reviews as the timeframe of development is shorter.

### 4.3 Section 73 applications

An updated viability assessment may be required for applications submitted under Section 73 of the Town and Country Planning Act 1990.

For example, where:

- There has been an amendment to the number of residential units
- The tenure mix has been varied and deviates from the original planning permission
- There has been a change to the development which could reasonably affect the viability (including a change of use to residential that could alter the viability position)
- There has been a change in circumstance which the Council considers could affect the viability of the scheme.

A Deed of Variation may be required where changes to the planning obligations are needed to make the s73 application acceptable in planning terms.

## 4.4. Self build and custom housebuilding

The terms 'self-build' and 'custom housebuilding' cover various ways that individuals can build their own homes.

The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding. It states that both are where an individual, an association of individuals, or persons working with or for individuals, build or complete houses to be occupied as homes by those individuals. For the purposes of this SPD, the term self-build will be used,

Self-build homes will only be liable for a financial contribution towards affordable housing if the property is advertised for sale or sold within 3 years of first occupation. The contribution is determined at the point of application. It will be payable at the point of sale of the home. A review mechanism will only be required if a policy compliant contribution is not secured at the planning stage.

To ensure the home meets the self-build definition, the Council must be satisfied that:

- The application complies with the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and accompanying Government guidance.
- The initial owner of the home will be (or has been) the primary decision maker regarding the final design and layout. In some cases, individuals are involved in building or managing the construction of their home from the start to the end. In other cases, individuals may commission the home to be built but make some key design decisions.
- The applicant will be the occupant of the property for at least the following 3 years.

If the above criteria are not met, the council will not consider the development to be self-build for planning purposes. This means the development will be liable for a financial contribution, as per policy P1 (see fact box 4).



### **Fact box 4: Formula for payment in lieu per habitable room for self-build**

The formula for the payment in lieu per habitable room for self-build is:

$$\text{Number of habitable rooms} \times 0.35 \times \text{£}30,000$$

## 4.5 Viability review mechanisms

Review mechanisms allow the council to re-appraise the viability of a development to ensure that the maximum affordable housing contribution is secured. They allow for additional affordable housing contributions to be secured should the viability and value of a development improve. This is measured from the date of planning permission to specific stages of the development programme (depending on the type of review).

Affordable housing contributions cannot be revised downwards by review mechanisms. This means the affordable housing contributions cannot decrease because of the review. The cost of reviews must be met by the applicant.

Review mechanisms may include one or more of the following:

- An early-stage review
- One or more mid-term reviews (for larger phased schemes; or where progress following an early-stage review has not been met).
- A late-stage review

Review mechanisms can encourage the build out of schemes, as they can be triggered if an agreed level of progress is not made in constructing the development.

The council will use an early-stage reviews for major schemes, if sufficient progress has not been made in construction. This would be triggered after two years of the permission being granted, or within a timeframe otherwise agreed upon.

Last stage review mechanisms will be used on all schemes which do not meet the policy compliant sum using a set formula, depending on the deficit. Contributions determined under the Late-Stage Review will be capped at the equivalent of 50 per cent affordable housing provision.

Applicants should refer to the GLA's guidance on review mechanisms for further detail on how and when these are used. This can be found in the Affordable Housing and Viability SPG (2017). The council will follow the guidance set out in this SPG when conducting and imposing review mechanisms.

# **CHAPTER 5**

# **NON-CONVENTIONAL HOUSING**

# 5. NON-CONVENTIONAL HOUSING

## 5.1 Purpose-built student accommodation (PBSA)

All developments of purpose-built student accommodation (PBSA) must provide affordable housing or a financial contribution in lieu. This ensures the need for student accommodation is balanced against the need for affordable housing. This is set out in the Southwark Plan 2022 policy P5 'Student Homes' and conforms with the London Plan 2021 policy H15 'Purpose-built student accommodation'.

London Plan 2021 Policy H15 also states that PBSA must contribute to a mixed and inclusive community at the neighbourhood level. The extent to which this policy requirement has been addressed will be a consideration in the determination of PBSA schemes.

There are two avenues for the provision of student housing in Southwark:

- **Nomination schemes:** These schemes have an agreement with a higher education institution.
- **Direct let schemes:** These schemes do not have a nomination agreement with a higher education institution.

Each avenue has its own requirement for the provision of affordable housing contributions. The contributions include the provision of affordable student rent. This is defined by the GLA as costing no more than 55% of the maximum Qualifying Maintenance Loan for a student living in London. The actual amount for the coming academic year is published in the GLA's Annual Monitoring Report.

## 5.2 Houses in Multiple Occupation (HMOs)

The Southwark Plan 2022 policy P9 'Houses in multiple occupation' acknowledges the role of Houses in Multiple Occupation (HMOs) in meeting the need of some residents and reducing the pressure on conventional housing stock.

There are two categories of HMOs under the Use Class Order:

- A small HMO is defined as a property that is occupied by between 3 and 6 unrelated individuals who share basic amenities such as a kitchen or bathroom.
- A large HMO is defined as a property that is occupied by more than 6 unrelated individuals that share basic amenities such as a kitchen or bathroom. A large HMO is classified as Sui Generis under the Use Class Order.

The Council controls the development of HMOs to ensure they are spread out appropriately across the borough and there is not an overconcentration of HMOs in areas. There can be negative impacts arising from an overconcentration of HMOs in an area including increased noise, pressure of local community facilities or stress on waste management.

HMOs are liable for contributions towards affordable which can be provided as a financial payment. HMOs are not expected to deliver affordable housing on or off-site as expected from larger developments. HMOs must submit a viability assessment to justify the maximum viable approach has been taken (see section 4 of this SPD). This is in accordance with policy P9 and P1.

This requirement is for all categories of HMO (small and large). This includes new build HMOs and HMOs resulting from the change of use of either a non-residential or residential use.

## 5.3 Other forms of self and non-self-contained housing

Form	Relevant policy	Use class and triggers	Affordable housing requirements
Older people housing	P7	C2, C4 and Sui Generis	Affordable housing delivery will be required preferably on site.
Co-living		Sui generis More than 100 units	Affordable housing delivery will be required
Build to Rent (PRS)	P4	C3; >100 homes <100 homes	In accordance with P1, must provide Discount Market Rent at social rent equivalent.

# **CHAPTER 6**

## **DESIGN AND MANAGEMENT OF AFFORDABLE HOUSING**



# 6. DESIGN AND MANAGEMENT OF AFFORDABLE HOUSING

## 6.1 Registered Providers

Social and intermediate housing can be delivered by bodies known as Registered Providers (RPs). RPs are organisations which are registered with the Regulator of Social Housing. The Regulator manages the statutory register of social housing providers (the register) which lists private (non-profit and profit-making) providers and local authority providers. Most RPs are housing associations, but they can also be trusts, co-operatives and companies.

The council also holds and updates an approved list of RPs of social housing. The list of council approved RPs will be reviewed on a regular basis and the most up to date version will be available on our website. Other Affordable Housing Providers that are not on our list of RPs will need to be approved by the council in writing. RPs looking to be included on the list should contact the council.

The council will use legal agreements to ensure housing remains affordable in perpetuity (where relevant depending on the affordable housing). This is in line with the National Planning Policy Framework. Clauses in the legal agreements will also require the developer to confirm and notify the Council who the RP is.

## 6.2 Service charges

Service charges are costs that are charged to leaseholders by property managers to cover the provision of services to a building. The charges may also be paid by tenants to a landlord, usually in addition to rent.

The charges can include, but are not limited to:

- General maintenance and repairs
- Insurance of the building
- Central heating for communal areas
- Lifts
- Lighting
- Cleaning of common areas.

The charges may also include the cost of managing the building by a property manager or agency.

It is important that service charges are kept affordable for residents, especially those in affordable housing. Residents often have little control over service charge increases and can find themselves no longer able to afford the costs over time. Service charges can increase over the lifespan of a development due to poor design, maintenance or building management. Excessive services being provided may also lead to increased or unaffordable charges.

### **Design**

Good design is paramount to keeping service charges affordable. High quality and sustainable materials will help to minimise the need of repairs and ongoing costs. Poorly designed developments can require more work and regular maintenance, impacting the affordability of the housing for its residents. Where affordable homes are provided in a development, applicants must demonstrate a high quality of design will be delivered.

### **Management**

Developers and Registered Providers must use reasonable endeavours to minimise any Service Charges in respect of the Affordable Housing Units. The amount of the service charges should not be more than the actual costs reasonably incurred with providing the service.

Applicants are encouraged to follow good practice guidance such as the [GLA's Service Charge Charter](#). The GLA charter encourages transparency, ensuring residents are provided with the information they need to understand service charges. The Charter also emphasises the need for affordability, good design and providing residents an opportunity to challenge service charges where necessary. Early engagement with Registered Providers is encouraged to ensure that their requirements can be factored into the design of the development.

### **Monitoring service charges**

The council may seek to be notified of the service charge cost for any social rented homes within a development. This would start from the date of first occupation and continue annually.

Restrictions may also be placed on increasing service charges. This would require the service charge for social rented homes to be lower than either the Service Charge Cap set or determined in accordance with the Rent Standard.

The council will take account of service charges when considering the viability of a development.

## 6.3 Tenure blind design

The Council expects affordable housing to be designed tenure blind. This means the design of the affordable housing should be indistinguishable from the market housing. The affordable housing should share the same standard of design as any market housing and share the same access arrangements as far as is practical.

There should be no difference between the appearance and quality of the affordable units and market units. Affordable and private tenants should have equal access to communal facilities such as shared amenity and parking areas.

## 6.4 Mortgagee in Possession Clause (MiPC)

The Mortgagee in possession clause (MiPC) is a fundamental clause to a Registered Provider's (RP) ability to secure funding for Shared Ownership leases. The council will require it to be included in all bilateral agreements made or unilateral undertakings offered under section 106 Town and Country Planning Act 1990.

The clause becomes operative in circumstances where a RP defaults on loan payments or any other terms. A mortgagee (or other relevant funding party) takes control of the RP interest in the affordable housing units as assets against which their loan is secured.

The GLA have produced a standard Mortgagee in Possession (MIP) clause in order to promote a consistent approach across London and facilitate Registered Providers to leverage sufficient levels of finance to increase the delivery of affordable homes.

The GLA MIP clause provides for any circumstance where a Registered Provider defaults on loan payments or any other terms. The clause allows for the council or another RP to purchase the affordable housing units within a specified 3 month 'moratorium period' that is satisfactory to major bank lenders. This is set out in the S106 agreement and is a contractual arrangement. If after three months the homes remain unsold then the mortgagee (usually a bank that has financed the Registered Provider) can sell the S106 housing and the requirements for it to be affordable contained in the S106 will no longer apply.

A robust financial case must be set out the Registered Provider if it does not want the Council to include the GLA's standard clause.

# **CHAPTER 7**

## **MONITORING OF AFFORDABLE HOUSING**

# 7. MONITORING OF AFFORDABLE HOUSING

Monitoring is essential to ensure that affordable homes are secured, delivered and retained in accordance with policy requirements and their legal agreements. Through monitoring, the Council can assess and enforce upon developers that are found to be in breach of their legal agreements.

The council also monitors and reviews the provision of affordable housing in the borough. This checks that affordable housing has remained affordable, and the correct provision has been delivered, which is set out in this chapter.

The Council monitors to ensure that, where appropriate:

- Developers are delivering and allocating the correct number of homes and habitable rooms as affordable housing
- Homes are being rented at an appropriate affordable level
- Affordable family homes are being provided
- To track any homes that may no longer be in intermediate tenure, for example where a Shared Ownership unit has staircased to become a private market unit.

The Council uses legal agreements and an annual audit as part of the monitoring process. Monitoring also happens at certain trigger points of the development process.

The Council uses legal agreements and an annual audit as part of the monitoring process. Monitoring also happens at certain trigger points of the development process.

## 7.1 Legal agreements

Planning obligations under section 106 Town and Country Planning Act 1990 will secure all of the requirements set out in this SPD.

This includes (but is not limited to):

- Affordable housing required to be delivered on site
- Any financial contribution due
- Any information that is required by the council to monitor compliance

These agreements will also secure any necessary viability reviews to ensure the maximum viable amount of affordable housing is being secured.

## 7.2 Affordable Housing Monitoring Schedule (AHMS) and annual audit

The Council undertakes an annual audit to ensure that homes secured within legal agreements are delivered. This ensures that homes are being adequately rented at an affordable level and the Council are aware of where these homes are within the borough.

The Affordable Housing Monitoring Schedule (AHMS) is a mandatory template which developers are required to complete. This will provide the necessary information for the Council's audit. The template sets out a simple and clear format for the return of the required information. The AHMS will be required as part of legal agreements where on-site affordable housing is proposed. The schedule requires all housing units within the development to be identified including wheelchair accessible homes.

Developers and/or Registered Providers are required to inform the Council of newly acquired affordable homes and any changes to existing homes held within the borough as part of the annual audit.

The AHMS requires information about the affordable housing, which will include details of:

- Tenure
- Number of bedrooms
- Flat size
- Weekly rent
- Service charge

The annual audit must be completed and submitted to the Council by the 31st March. The results of the audit will be published on the Council's website.

The council may also ask for any other information it deems necessary to assist with the monitoring of affordable housing.

**CHAPTER 8**

**GLOSSARY**

## 8. GLOSSARY

**Affordable housing:** Housing designed to meet the needs of households whose incomes are not sufficient to allow them to access decent and appropriate housing in their borough. Affordable housing comprises social and intermediate housing.

**Affordable Housing Providers:** Bodies which own and manage affordable housing. These could include registered providers and specialist private affordable housing managers.

**Build to rent:** Purpose-built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.

**Co-living / purpose-built shared living developments:** These are similar to student halls of residence but not restricted to students. Typically a collective living scheme will be a large block which provides a range of communal areas that fulfil different functions (such as libraries, kitchens, gyms, games rooms etc.) which are available to all residents. Residents typically rent a small en-suite bedroom. Unlike halls of residence, collective living is intended to be a primary residence

**Community Land Trusts:** nonprofit organisations that own and develop land for the benefit of the community, affordable in perpetuity

**Cluster flat:** Non-self-contained accommodation for temporary occupation by a specific user group such as students or nurses, where living and kitchen facilities are shared by a number of households.

**Density:** The amount of internal floor space of a building in relation to an area of land. For residential development, density is expressed as the number of units or habitable rooms per hectare.

**Development:** As defined by Section 55 of the Town and Country Planning Act 1990, development means carrying out building, engineering, mining or other operations in, on, over or under land, or changing the use of buildings or land.



**Habitable room:** A room within a dwelling, the main purpose of which is for sleeping, living or dining. It is any room with a window that could be used to sleep in, regardless of what it is actually used for. This excludes toilets, bathrooms, landings, halls and lobbies, and also excludes kitchens with an overall floor area of less than 11 square metres. Any floor area where the ceiling height is less than 1.5m will not count towards the habitable floorspace. Habitable rooms exceeding 28sqm will be counted as multiple habitable rooms, as set out in Southwark Plan policy P1.

**Heads of Terms:** A document setting out the particular items of a S106 agreement as agreed in principle between the council and developer. It is advisable for Heads of Terms to be agreed prior to committee or delegated officers making a “minded to approve” decision. Any subsequent reluctance on the developer’s part to adhere to agreed heads of Terms may justify a refusal of permission.

**HMO:** House in multiple occupation. These are dwellings which are shared by three or more tenants who form two or more households and share a kitchen, bathroom or toilet.

**Household:** One person living alone or a group of people (who may or may not be related) living or staying temporarily at the same address with common housekeeping.

**Intermediate Housing:** Sub-market housing which is above target rents, but is substantially below open market levels

**Key Worker Housing:** Housing product that is based at intermediate rent levels, that is reserved or allocated for people who are given priority by reason of their household income and their occupation, to ensure that workers are retained in essential public services. This includes those who work in health, education, police and emergency services.

**Live-work units:** The flexible use of buildings and spaces to allow both functions within them.

**London Living Rent:** A type of intermediate housing that is considered ‘genuinely affordable’, aimed at middle-income households.

**Local Plan:** A statutory plan produced by each local authority that integrates strategic and local planning responsibilities through policies and proposals for the development and use of land in their area.

**London Plan:** A strategic plan for the whole of London produced by the GLA. The main purpose of the London Plan is to ensure that all the individual plans produced by the London boroughs work together to meet the priorities that are agreed for the whole London region. The Local Development Framework cannot contain strategies or policies that are not in general conformity with the London Plan.

**Major developments:** Any residential or mixed-use development creating 10 or more dwellings, or if that is not known, where the site area is 0.5 hectares or more. For other types of development, a major development is one where the floorspace to be built is 1000 square metres or more, or the site area is 1 hectare or more.

**Mixed-use:** Development comprising one or more activities within the same building or site.

**National Planning Policy Framework (NPPF):** A policy document that sets out the government's planning policies for England and how these should be applied.

**Non- self-contained accommodation / non-conventional accommodation:** Residential accommodation where occupiers of different householders share living, kitchen or bathrooms facilities.

**Older People's Housing:** This refers to various types of specialised accommodation for older people, such nursing homes and extra-care housing. It also includes sheltered housing, consisting of self-contained individual apartments, almshouses and co-housing schemes.

**Planning obligations (or section 106 (s106) agreements):** These agreements confer planning obligations on persons with an interest in land in order to achieve the implementation of relevant planning policies as authorised by Section 106 of the Town and Country Planning Act 1990.

**Registered providers (RPs):** Housing providers that are registered with the Homes and Communities Agency. Most RPs are housing associations, but some RPs are trusts, co-operatives and companies.

**Shared Ownership:** A tenure that allows households who cannot afford to buy a home outright the opportunity to part buy and part rent a home. Residents buy a minimum share of 10% in their home, depending on what they can afford, and pay rent on the share that they don't buy. The bigger the share that is purchased, the less rent has to be paid on the remaining part of the property.

**Southwark Plan:** See "Local Plan"

**Small sites:** Sites below 0.25 hectares in size; or which proposes 9 (inclusive) or less residential units.

**Social rented housing:** Housing that is available to rent either from the Council, a registered provider, or another affordable housing provider. Social rented housing is set at an affordable rent based on local incomes.

**S106 agreements:** See “Planning obligations”

**Self-build and custom-build housing:** Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing.

**Staircasing:** A system that allows residents in shared ownership housing to buy more shares on their property as they can afford them until eventually they own their home outright.

**Studio flat:** A no-bedroom residential unit which has a separate bathroom and kitchen but shared bedroom and living area.

**Supplementary Planning Document (SPD):** A document that expands upon and provides further guidance on how planning policies in the Southwark Plan should be applied. Once adopted, an SPD will become a material consideration when considering planning applications in Southwark and is regularly monitored and reviewed.

**Sustainability Appraisal/ Strategic Environmental Assessment:** A systematic and interactive process undertaken during the preparation of a plan or strategy, which identifies and reports on the extent to which the implementation of the plan or strategy would achieve environmental, economic and social objectives by which sustainable development can be defined, in order that the performance of the strategy and policies is improved.

**Sustainable Development:** At a high level, sustainable development means meeting the needs of the present without compromising the ability of future generations to meet their own needs. Within the planning system, sustainable development means achieving economic, social, and environmental objectives.

**Unilateral undertakings:** Instead of agreeing obligations through the standard process of negotiation and agreement between the council and developer. Developers may prepare the terms of a planning obligation on their own, without prior discussion with the council. These will then be submitted to the council. If the terms are acceptable the fact that the document has not been negotiated should not in itself be seen as a bar to the grant of permission. Where any unilateral undertaking does not meet the council’s objectives permission should be refused.

