

# **Planning Advice Note**

## **Revised Local Plan Policy COM7 Affordable Housing Financial Contributions**

**July 2016**



## **1 Introduction**

- 1.1 This Planning Advice Note has been prepared to provide guidance in relation to the adopted Local Plan Policy COM7: Affordable Housing. It sets out the Council's approach to implementing the policy following the publication of the National Planning Practice Guidance (NPPG) on 19 May 2016 regarding circumstances where tariff style and affordable housing contributions should not be sought.
- 1.2 The Advice Note also provides clarification on how financial contributions for the provision of the equivalent off-site affordable housing are calculated and the background justification for the methodology. The advice note has been prepared to guide developers of sites proposing development of a net gain of 10 or less dwellings (or less than 0.33Ha).
- 1.3 This Planning Advice Note is an interim note whilst the Council prepares an Affordable Housing Supplementary Planning Document.

## **2 Policy Background**

- 2.1 As a result of the decision in the Court of Appeal, National Planning Practice Guidance (NPPG) was published on 19 May 2016 which conflicts with the Council's adopted policy in the Local Plan on seeking affordable housing contributions (Policy COM7). This new material consideration required the Council to review its position. A report was taken to Cabinet on 22 June 2016 and subsequently agreed at the Council meeting on 29 June 2016 agreeing the revisions to Policy COM7.
- 2.2 The NPPG sets out circumstances where tariff style and affordable housing contributions should not be sought. These circumstances are that:
  - Contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm
  - In designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty

- Affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home<sup>1</sup>
- 2.3 Tariff-style contributions are described in the NPPG as contributions that can be pooled into funding ‘pots’ intended to provide common types of infrastructure for the wider area.<sup>2</sup>
- 2.4 The adopted Revised Local Plan Policy COM7: Affordable Housing is provided in the box below. Please note that the revised version of Policy COM7 is detailed in section 3.

#### **Policy COM7: Affordable Housing**

**The Council will negotiate provision on housing sites of a net gain of:**

- 15 or more dwellings (or sites of 0.5ha of more) for up to 40% of dwellings to be affordable;
- 10-14 dwellings (or sites of 0.3-0.49ha) for up to 30% of dwellings to be affordable;
- 5-9 dwellings (or sites of 0.2-0.29ha) for up to 20% of dwellings to be affordable or an equivalent off site provision made; and
- 1-4 dwellings (or sites of up to 0.19ha) a financial contribution equivalent to up to 10% of dwellings to be affordable;  
and which will be secured via a legal agreement.

**In assessing the suitability of such sites for the provision of affordable housing the Council will take into account the size, suitability and the economics of provision.**

**Development should provide for the appropriate integration of affordable housing and market housing, in order to achieve an inclusive and mixed community.**

- 2.5 The Policy was written to reflect National Planning Policy Framework (NPPF) paragraphs 24-27 and provide a local policy framework for the consideration of development proposals.
- 2.6 The Strategic Housing Market Assessment January 2014 (SHMA)<sup>3</sup> demonstrates that there is a need for 292 affordable dwellings per annum across the Borough up to 2031.
- 2.7 The NPPF Annex 2 Glossary includes a definition of affordable housing and rural exception sites (affordable housing)

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<sup>1</sup> Paragraph 031, NPPG

<sup>2</sup> Paragraph 014, NPPG

<sup>3</sup> Page 101, Fig. 7.21 Estimated Level of Housing Need per annum per sub-area, SHMA

**Affordable housing:** Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.”

- 2.8 The definition of affordable housing in the National Planning Policy Framework may be subject to change. The Department of Communities and Local Government have proposed changes to the definition of Affordable Housing through the Housing and Planning Act 2016. The Council will review this note in the event that the definition of Affordable Housing changes.

### 3 Approach to seeking contributions

- 3.1 The Council considered a number of options<sup>4</sup> with regard to implementing Policy COM7 as a result of the NPPG introduced on 19 May 2016. Options considered were to either a) continue to use policy COM7 as adopted; b)

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<sup>4</sup> Test Valley Borough Council, Cabinet, 22 June 2016

undertake a review of policy COM7; or c) revise policy COM7 so that it is consistent with national guidance and designate the rural areas.

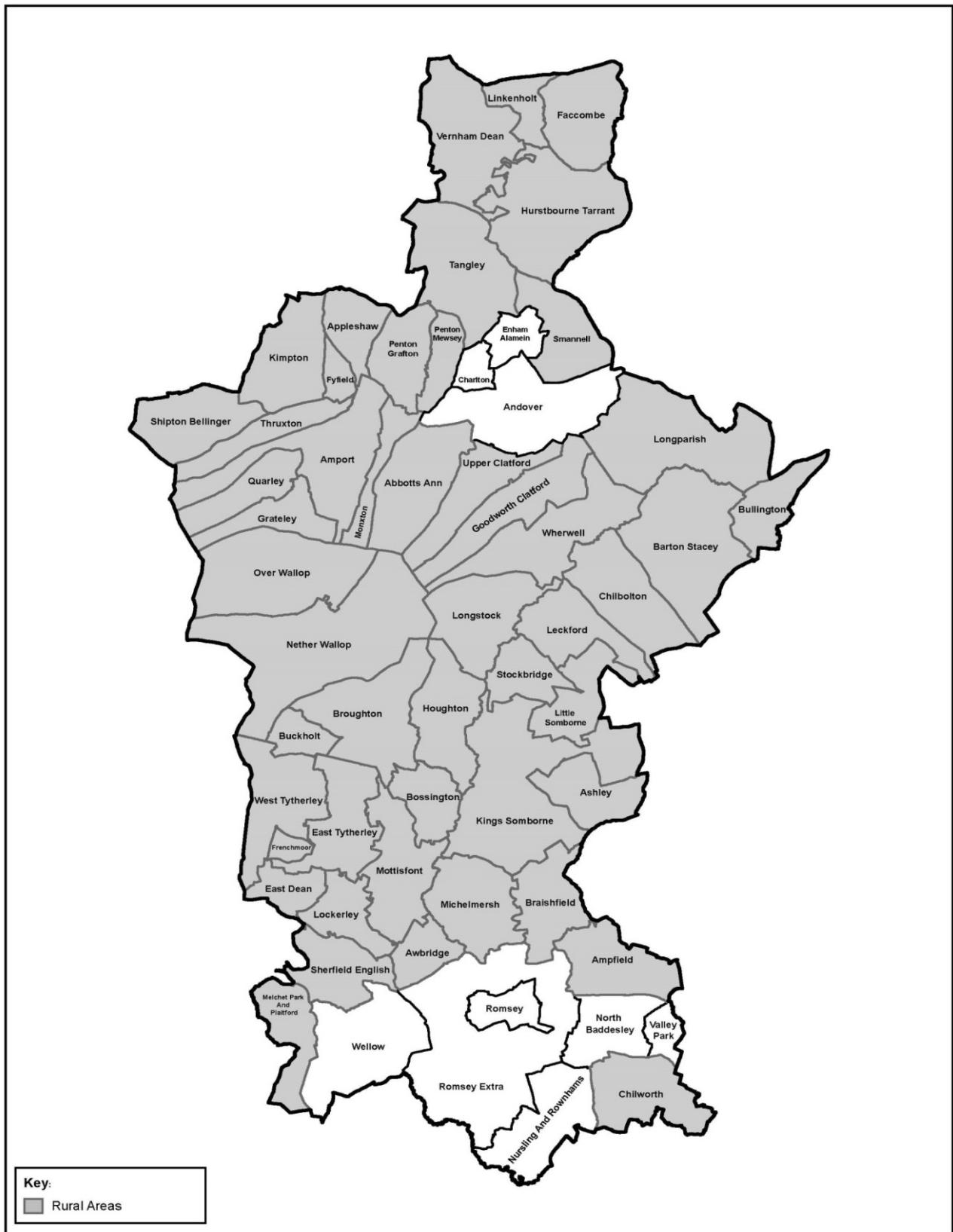
- 3.2 The Council<sup>5</sup> resolved to apply option c) and to revise policy COM7 so that it is consistent with national guidance. In effect, the Council will no longer apply Policy COM7 to schemes which fall below the thresholds contained in the NPPG. In designated rural areas the threshold for seeking financial contributions is between 6 – 10 dwellings.
- 3.3 In applying this approach the Council has the ability to apply a lower threshold to Designated Rural Areas. As defined by legislation<sup>6</sup> the Council already has parts of the Borough designated as a rural area. Table 1 below sets out those parishes which are designated. This excludes the parishes of Andover, Charlton, Enham Alamein, Romsey and Romsey Extra, North Baddesley, Nursling & Rownhams, Valley Park and Wellow. These are classed as Undesignated Areas.

**Table 1 – designated rural parishes**

As defined by the Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) (No. 2) Order 2004, made under s157(1)(c), Housing Act 1985 for the Borough of Test Valley, the designated rural area parishes include:  
Abbotts Ann, Ampfield, Amport, Appleshaw, Ashley, Awbridge, Barton Stacey, Bossington, Braishfield, Broughton, Buckholt, Bullington, Chilbolton, Chilworth, East Dean, East Tytherley, Facombe, Frenchmoor, Fyfield, Grately, Goodworth Clatford, Houghton, Hurstbourne Tarrant, Kimpton, Kings Somborne, Leckford, Linkenholt, Little Somborne, Lockerley, Longparish, Longstock, Melchet Park and Plaitford, Michelmersh, Monxton, Mottisfont, Nether Wallop, Over Wallop, Penton Grafton, Penton Mewsey, Quarley Sherfield English, Shipton Bellinger, Smannell, Stockbridge, Tangleigh, Thruxtion, Upper Clatford, Vernham Dean, West Tytherley, Wherwell.

<sup>5</sup> Test Valley Borough Council, Council meeting, 29 June 2016

<sup>6</sup> Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) (No. 2) Order 2004, SI 2004: 2681 made under s157(1)(c), Housing Act 1985



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## Affordable Housing - Rural Designations

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Date: December 2014 | Scale: NTS | Drawn by: PPT (hg)

**Test Valley**  
Borough Council

3.4 The NPPG only allows for financial contributions to be sought from those schemes between 6 – 10 units in designated rural areas after completion of the development<sup>7</sup>. Financial contributions will be sought from schemes between 6 – 10 units in designated rural areas.

3.5 The revised wording of Policy COM7 is as follows:

**The Council will negotiate on housing sites:**

**a) In the Undesignated Area<sup>51A</sup> with a combined gross floorspace greater than 1,000sqm and of a net gain of:**

- 15 or more dwellings (or sites of 0.5ha or more) for up to 40% of dwellings to be affordable;
- 10 11-14 dwellings (or sites of 0.34-0.49ha) for up to 30% of dwellings to be affordable; and

**b) In the Designated Rural Area<sup>51B</sup> of a net gain of:**

- 15 or more dwellings (or sites of 0.5ha or more) for up to 40% of dwellings to be affordable;
- 11-14 dwellings (or site of 0.34-0.49ha) for up to 30% of dwellings to be affordable;
- 10 dwellings (or sites of 0.3-0.33ha) a financial contribution equivalent to up to 30% of dwellings to be affordable;
- 6-9 dwellings (or sites of 0.22-0.29ha) a financial contribution equivalent to up to 20% of dwellings to be affordable;
- 5-9 dwellings (or sites of 0.2-0.29ha) for up to 20% of dwellings to be affordable or an equivalent off site provision made; and
- 1-4 dwellings (or sites of up to 0.19ha) a financial contribution equivalent to up to 10% of dwellings to be affordable;

and which is secured via a legal agreement.

In assessing the suitability of such sites for the provision of affordable housing the Council will take into account the size, suitability and the economics of provision.

Development should provide for the appropriate integration of affordable housing and market housing, in order to achieve an inclusive and mixed community.

5.105

The Council will negotiate with developers in the Designated Rural Area for a financial contribution on sites of 6-9 dwellings or less with developers for a financial contribution equivalent to 10% 20%, and on sites of 10 dwellings a financial contribution equivalent to 30%, of the number of dwellings on site to be affordable<sup>52</sup> payable upon completion. On sites above the threshold,

<sup>7</sup> Paragraph 031, NPPG

~~affordable will be sought on the basis of the applicable percentage. On sites of 5-9 dwellings the Council will also seek the inclusion of a proportion of affordable housing. The preferred option is for provision to be made on site. In some circumstances the Council will consider an equivalent off site contribution where justified.~~

#### 5.106

The thresholds and percentages sought are considered achievable, and are supported by the Council's viability studies<sup>53</sup> and accord with the Government's amendments to Planning Practice Guidance on planning contributions (Section 106 Planning Obligations), following the Written Ministerial Statement of 28 November 2014. A reduced affordable housing requirement can be sought but only where the developer can justify that to provide the full requirement would make the scheme unviable.

#### 5.107

Whole dwellings will be sought on-site and where the number sought does not equate to a whole number units, the remaining part dwelling will be sought as a financial contributions e.g. 1.6 3.6 affordable dwellings would be sought from a site of 8 12 dwellings (20%) (30%) of which, -4 3 would be on-site and 0.6 as a financial contribution.

51A - Comprising the parishes of: Andover, Charlton, Enham Alamein, Romsey, Romsey Extra, North Badsey, Nursling and Rownhams, Valley Park, and Wellow (excluded from those defined as within a Designated Rural Area by SI 2004 No.2681)

51B - As defined by The Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) (No.2) Order 2004 (SI 2004 No.2681) (made under s157 Housing Act 1985)

52 – Affordable Housing is defined within the glossary of the NPPF, March 2012

53 – Adams Integra and Dixon Searle Partnership Housing Viability Studies

## 4 Approach to methodology for contributions

- 4.1 The proposed stepped approach with a sliding scale used to seek affordable housing in Policy COM7 is informed by the findings of the evidence base *Affordable Housing Development Viability Study Update, 2012, Dixon Searle*
- 4.2 The findings of the study indicate that from smaller sites a smaller proportion of affordable units can reasonably be sought and still be viable. Also for such sites, it is more appropriate to seek a financial contribution, rather than on site provision. This has led to the stepped approach for seeking affordable housing on sites coupled with a sliding scale for the proportion of affordable housing sought, or the equivalent financial contribution which is reflected in Policy COM7.
- 4.3 Where affordable housing is sought by means of a financial contribution in lieu of off site provision, this will be based upon the Residual Land Value (RLV). The RLV should result in a positive valuation for the site. If the resulting figure

is negative, the site will not be financially viable. The following table (Table 2) is a general explanation of how RLV is broadly arrived at:

**Table 2 – Residual Land Value**

|  |
|--|
| Gross Development Value (GDV) (value of completed scheme) <sup>8</sup>         |
| Minus  |
| Costs (cost of realising the GDV including build costs, fees, finance, profit) |
| Minus  |
| Other Costs e.g. planning obligations or CIL                                   |
| Equals   |
| Residual Land Value (RLV) (how much the site is worth)                         |

- 4.4 The RLV of sites across Test Valley has been taken account of in the *Affordable Housing Viability Update, 2012, Dixon Searle*. This is a broad brush approach which has informed the structure of Policy COM7 to assess the viability of sites in general within the threshold bands. The RLV informs the Residual Land Value Percentage used in the methodology.
- 4.5 The Residual Land Value methodology informs the appropriate land value for a site. RLV enables the value of a piece of land to be estimated after costs associated with developing, maintaining or reselling the land have been deducted from the Gross Development Value (GDV) which is the value of the completed scheme.
- 4.6 Policy COM7 takes account of the economics of provision in both providing affordable housing on site and a financial contribution for off-site provision in lieu. Where circumstances arise, the Council will take into consideration financial viability in negotiating the percentage of affordable housing on site or a financial contribution for off-site provision.

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<sup>8</sup> GDV – value of completed scheme includes the total indicative revenues generated by development of the site. GDV will be checked against reliable data sources such as Rightmove, valuation from a qualified surveyor or estate agent, if supplied with a planning application.

## 5 Calculating financial contributions for affordable housing

- 5.1 This section sets out how financial contributions for developments of 6 - 9 dwellings and 10 dwellings will be calculated. Applicants do not need to submit any data, information or viability appraisals, unless they wish to, as the methodology includes baseline assumptions for the Gross Development Value (GDV) and the Residual Land Value Percentage (RLV%). The baseline assumptions are drawn from *Affordable Housing Viability Update, 2012, Dixon Searle*. Where an applicant has submitted information regarding GDV, this will be checked against reliable sources of house price data, such as Rightmove, or with local estate agents.

### Proposals for 6 – 9 dwellings (designated rural areas)

- 5.2 For developments of 6 - 9 dwellings (or sites of 0.22 – 0.29Ha), Policy COM7 requires a financial contribution equivalent up to 20% of dwellings to be affordable.
- 5.3 In achieving the *equivalent off-site provision* the calculation also makes allowance for the Council's site acquisition costs to provide the affordable housing on an alternative site. See table 3 below:

**Table 3:** Calculating the equivalent off-site financial contribution for proposals of 6 – 9 dwellings for Policy COM7: Affordable Housing

$$(A \times B) + C = D$$

$$D \times E = F$$

where:

A = Gross Development Value (Total value of development)

B = Residual Land Value Percentage (Percentage of House Price which is the Land Value)

C = Site acquisition and servicing costs (for equivalent off-site provision)

D = Sum per unit

E = Percentage affordable housing sought

F = Financial Contribution sought

### Table 2 example calculation

|   |   |
|---|---|
| £200,000  | Gross Development Value [A]   |
| 22.5%   | Residual Land Percentage [B] % TBC (assumed 22.5% for areas covered by CIL charging Zone 1) |
| 15%   | Site acquisition and servicing costs [C] % TBC (assumed 15%)                                |
| 20%   | Percentage affordable housing sought [E] (%) in line with Policy COM7)                      |
| $\text{£200,000} \times 0.214 = \text{£45,000}$ | (A x B) [x 0.225 equates to x 22.5%]  |
| $\text{£45,000} \times 0.15 = \text{£6,750}$    | (C = [A x B] x 0.15) [0.15 equates to x 15%]  |

|  |  |
|--|--|
| $\text{£45,000} + \text{£6,750} = \text{£51,750}$ $\text{£51,750} \times 0.2 = \text{£10,350}$ | $(A \times B) + C = D$ $D \times E = F [x 0.2 \text{ equates to } x 20\%]$ |
|--|--|

**Total financial contribution sought = £10,350 per dwelling**

- 5.4 The assumptions used in the above calculation are set out below in Table 4. These are the assumptions that will be used in this interim advice note.

**Table 4 – Assumptions**

|  |            |
|--|------------|
| <b>Gross Development Value (GDV)</b> – see footnote 1  | <b>(A)</b> |
| <b>Residual Land Value Percentage<sup>9</sup></b> – This is the amount that the land value comprises in the overall house price. | <b>(B)</b> |
| CIL Zone 1 - 22.5%<br>CIL Zone 2 – 17.2%<br>CIL Zone 3 – 15.3%<br>CIL Zone 4 – 7.8%  |            |
| <b>Site acquisition and servicing costs</b> – TVBC has assumed 15% <sup>10</sup>   | <b>(C)</b> |

- 5.5 The RLV % figures as above in Table 3 are derived from the *Calculation Methodology for Financial Contributions, 2016, Dixon Searle*. Property values that drive the gross development value in a Residual Land Value appraisal were reviewed across the Borough to test for any variations. The Council's preferred approach is to assign a specific RLV % to each of the Council's adopted Community Infrastructure Levy (CIL) residential charging zones. A map of the residential CIL Charging Zones are attached in a separate Appendix.
- 5.6 These zones are based on viability evidence including making an appropriate allowance for affordable housing in each case and taking into account property market conditions. As CIL and affordable housing viability are inextricably linked, any variation in the calculation of financial contributions geographically across the Borough accords with the CIL residential charging zones.
- 5.7 In terms of determining the Gross Development Value (GDV), the Council uses data from Rightmove, to calculate a financial contribution. However, this is liable to change as the Council develops an Affordable Housing Supplementary Planning Document.

<sup>9</sup> Derived from the Calculation Methodology for Financial Contributions, 2016, Dixon Searle

<sup>10</sup> Derived from the Affordable Housing Viability Update, 2012, Dixon Searle

### **Proposals for 10 dwellings (non-designated rural areas)**

- 5.8 Policy COM7 does not require any on-site provision of affordable housing on sites where development of 10 dwellings is proposed, therefore a financial contribution in lieu is required. Where development proposes 10 dwellings, a financial contribution equivalent to up to 30% of dwellings to be affordable will be required.
- 5.9 As for the methodology used to calculate a contribution for proposals of 6 – 9 dwellings, the Council uses the assumptions from the *Calculation Methodology for Financial Contributions, 2016*, Dixon Searle and data from sites such as Rightmove, to calculate a financial contribution. The methodology for calculating a financial contribution for proposals of 10 dwellings is the same as that for proposals of 6 – 9 dwellings. However, the RLV% will vary depending on the location of the development across the Borough.
- 5.10 For sites that come forward with proposals of more than 10, the Council will seek the relevant proportion of affordable housing on site. However, in accordance with Policy COM7, where it is deemed appropriate to secure a financial contribution in lieu of affordable housing on site, the same methodology would apply as explained in this advice note.

## **6 Mechanism for securing affordable housing**

- 6.1 As stated in Policy COM7, the Council will seek to secure affordable housing, or a financial contribution for off-site provision, via a S106 Legal Agreement or a Unilateral Undertaking (UU).
- 6.2 The precise mix and tenure for provision on site will be specified in the S106 or UU. Where a financial contribution is secured for provision of affordable housing off-site, the value of the contribution will be specified in the S106, and index linked (RPI) at the point in time where payment is due. The Council will require contributions to be paid upon completion of the units or an earlier trigger to be agreed, the meaning of which will be defined in the legal agreement to trigger payment of the contribution. To ensure the delivery of Affordable Housing, the Council will require the developer to enter into a legal agreement which limits the opportunities for financial contributions to remain outstanding at the completion of the development.

## **7 Application of affordable housing contributions**

- 7.1 Affordable Housing is not subject to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) because it is not relevant infrastructure for that purpose. Specific projects are not identified as they will be informed by the changing and evolving evidence regarding housing need including the Housing Strategy which is currently in development.

- 7.2 The Strategic Housing Market Assessment (SHMA) identifies the total need for affordable housing up to 2031 across the Borough and subdivides this need into 5 sub-areas<sup>11</sup>. How Contributions will be allocated to meet affordable housing need within the sub-area will be informed by the Housing Strategy and the SHMA.

## **8 Subsequent revisions to this Planning Advice Note**

- 8.1 The information in this interim Planning Advice Note may be subject to change. Subsequent revisions to this note will therefore be published in the light of further evidence. This Planning Advice Note may be amended following the publication of the Housing Strategy or an adopted Affordable Housing Supplementary Planning Document, currently being developed.

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<sup>11</sup> Page 4, SHMA sub-areas of Test Valley