

# Affordable Housing Supplementary Planning Document 2011

## Update to reflect changes in national policy (including First Homes)

### October 2024

1.1 Changes to the National Planning Policy Framework (NPPF) (July 2021) and the introduction of First Homes as a new affordable housing tenure (May 2021), have led to changes in how the District Council's affordable housing policy should be considered. The District-wide Affordable Housing policy is set out in Policy SP3 of the Core Strategy Policy and accompanying Affordable Housing Supplementary Planning Document (SPD) 2011. Policy SP3 should now be considered in the context of the following changes.

### What is the level of affordable housing sought?

2.1 Core Strategy Policy SP3 seeks the provision of affordable housing on new residential developments. The Core Strategy was adopted in 2011, before the National Planning Policy Framework (NPPF) was first published in 2012 and updated since. Whilst Core Strategy Policy SP3 seeks affordable housing contributions on all net dwellings, the NPPF triggers affordable housing contributions only on major development<sup>1</sup> (Para 64). There is, therefore, conflict between local and national policy. This SPD update represents the latest local policy position on Affordable Housing and the specific requirements are set out in Table 1 below.

2.2 Exemptions will be made where the site or proposed development comprise one of the following, also known as "exemption sites":

- a) Solely Build to Rent;
- b) Specialist accommodation for a group of people with specific needs (e.g. purpose-built accommodation for the elderly under Use Class C2, or students);
- c) Propose to be developed by people who wish to build or commission their own homes; or
- d) Is exclusively for a First Homes Exceptions Site or for rural exceptions housing.

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<sup>1</sup> 'Major Development' is defined in the NPPF Glossary as: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m<sup>2</sup> or more, or a site of 1 hectare or more, or as otherwise provided in the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#).

**Table 1 – Affordable housing requirements on new residential developments**

<b>Number of new homes in the development/size of site</b>	<b>Development is within a Designated Rural Area (S157 Housing Act 1985) - % affordable housing required</b>	<b>Development is not within a Designated Rural Area - % affordable housing required</b>
0-5 homes or site is less than 0.5 hectares	0	0
0-5 homes and site is 0.5 hectares or more	10*	10*
6-9 homes irrespective of site size	20*	0
6-9 homes and site is 0.5 hectares or more	20*	20*
Site is 0.5 hectares or more and number of dwellings is unknown	30**	30**
10-14 homes irrespective of size of site	30**	30**
15-24 homes irrespective of size of site	40**	40**
25+ homes irrespective of size of site	40***	40***

2.3 The affordable housing requirements are further explained below:

\* The affordable housing is provided in the form of a financial contribution payable on completion of the development. Subject to the clarification in para 4.1 in relation to the definition of major development in the NPPF and the Town and Country Planning (General Development Procedure ) Order 2015 as amended.

\*\* This triggers a small number of affordable homes, which may not provide a viable proposition for our delivery partners. A financial contribution in lieu of some, or all, of the affordable housing on site, may be sought. This would be payable on commencement of development. The Housing Strategy

Manager will advise the Planning Officer in all such cases.

\*\*\* In exceptional circumstances, e.g. particular forms of development or the application site is considered to be in a remote location, it may not be considered suitable or economic for the provision of affordable housing on the development site. The Housing Strategy Manager will advise the Planning Officer in all such cases, based on the following options:

- A reduced level of affordable housing provision on site plus a financial contribution in lieu of the shortfall, payable on commencement of development; or
- A financial contribution in lieu of all affordable housing on site, payable on commencement of development.

2.4 The Affordable Housing SPD (2011) provides the method for calculating the appropriate financial contribution.

## **What affordable housing tenure mix should be provided?**

3.1 Core Strategy Policy SP3 sets out that, of the affordable housing to be provided, 65% should be for Social Housing (Social Rented and Affordable Rented housing) and 35% for Intermediate Housing. This tenure split does not apply to exemption sites.

3.2 The tenure split of 65% Social Housing and 35% Intermediate Housing (including First Homes) is maintained, but has been further refined as a result of the introduction of First Homes and associated Government guidance. Social Housing remains the priority housing need.

The tenure split below will apply unless otherwise agreed by the Housing Strategy Manager:

- 58% Social Rented housing;
- 7% Affordable Rented housing;
- Up to 25% First Homes; and
- 10% other Intermediate Housing tenures, including Shared Ownership.

3.3 Further guidance on First Homes can be found as part of the Planning Practice Guidance at [www.gov.uk/guidance/first-homes](http://www.gov.uk/guidance/first-homes)

- 3.4 Paragraph 65 of the NPPF expects that where major development involving the provision of housing is proposed, at least 10% of the total number of homes are to be made available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups, or the proposed development is an exemption site. First Homes will contribute to meeting this 10% provision.
- 3.5 It is recognised that in certain circumstances, e.g. flatted developments, a policy compliant tenure mix may not be suitable. The Housing Strategy Manager will advise the preferred tenure mix in all such cases.

### **What developments trigger affordable housing?**

- 4.1 Paragraph 64 of the NPPF sets out that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in a Designated Rural Area (Section 157 of the Housing Act 1985). As set out in Paragraph 2.1, major residential developments are defined as developments comprising 10 homes or more or where the site has an area of 0.5 hectares or more and the number of homes is unknown.
- 4.2 The District Council has approved the implementation of a lower threshold in all Designated Rural Areas (Cabinet, March 2015 and February 2023) where affordable housing is triggered on developments comprising 6-9 homes.
- 4.3 For details of which parishes are within a Designated Rural Area, please see **Appendices A and B**.
- 4.4 Paragraph 64 also supports the re-use of brownfield land, and in particular where vacant buildings are being reused or redeveloped, requires the affordable housing contribution to be reduced by a proportionate amount. Please see **Appendix C**.

## What is affordable housing?

- 5.1 [Annex 2 of the NPPF defines affordable housing and the various affordable housing products](#) available.
- 5.2 Where appropriate, and in accordance with national policy, the District Council has set its own local definitions and requirements of affordable housing. These are set out below.
- 5.3 **Affordable Rented Housing.** Homes are to be provided at rents that do not exceed the relevant Local Housing Allowance, inclusive of service charges and fees. This is to ensure the homes are affordable to those reliant on Universal Credit/housing benefit.
- 5.4 **Social Rented Housing.** Any 4 bedroom housing provided as affordable housing must be provided as Social Rented housing only. This is to ensure the homes are affordable to those reliant on Universal Credit/housing benefit.
- 5.5 **Build to Rent.** Developments are expected to:
- Be secured in single ownership providing solely for the rental market for a minimum 15 year term but where viable, up to a 30 year term, with provision for clawback of affordable housing contributions should this covenant not be met;
  - The Council will look for tenancies for private renters to be up to three years' duration, with a six month break clause in the tenant's favour;
  - Structured and limited in-tenancy rent increases, agreed with the Housing Policy Manager in advance;
  - Provide a high standard of professional on-site management and control of the accommodation;
  - Provide 20% on-site affordable housing in the form of Affordable Private Rent Housing;
  - Affordable Private Rent Housing to be provided as one and two bedroom accommodation only, unless otherwise agreed by the Housing Strategy Manager; and
  - Affordable Private Rent Housing is to be provided on an Assured Shorthold Tenancy with rents capped at 80% of the open market rent, including any service charges and fees.
- 5.6 **Intermediate Housing.** This includes the following tenures – shared ownership, shared equity, First Homes, discounted market housing, rent to buy and intermediate rented housing. The [Sevenoaks District Intermediate Housing](#)

[Protocol](#) sets out the eligibility criteria and sales process for shared ownership, First Homes and discounted market housing.

- 5.7 **Intermediate rented housing.** Homes are to be provided on an Assured Shorthold Tenancy at a rent that does not exceed 80% of the local open market rent (including any service charge and fees).
- 5.8 **Discounted Market Housing.** Homes are to be offered at a discount of at least 30% of open market value, in line with First Homes, unless otherwise agreed by the District Council. Priority will be given to buyers with a local connection to the District, as set out in the [Sevenoaks District Intermediate Housing Protocol](#). Model clauses have been included within the Sevenoaks District Council affordable housing template S106 agreement.
- 5.9 **First Homes.** The District Council has approved a local First Homes policy, which applies to any First Homes delivered within the District. The local policy is:
- Homes are to be offered at a discount of at least 30% of open market value.
  - Capped maximum discounted sale price of £250,000 to apply at initial sale.
  - For a limited marketing period, priority will be given to first time buyers with a local connection to the District, as set out in the [Sevenoaks District Intermediate Housing Protocol](#).
  - The form and style of marketing is to be agreed in advance by the Housing Strategy Manager.
  - First Homes Exception Sites are not permitted in Designated Rural Areas, as set out in Section 157 of the Housing Act 1985 (see Appendices A and B), or areas within the Green Belt.
  - Sevenoaks District Council has set a fee of up to £500, payable by the first time buyer applicant at point of application, in order to meet our costs for processing First Homes applications.
  - The policy will be reviewed annually.
  - The Homes England model legal clauses must be used in all cases. These include the prescribed “Development Standard” which the District Council expects to be applied to all affordable housing delivered on a development site. The model clauses have been included within the Sevenoaks District Council affordable housing [template S106 agreement](#).

- The development management process will determine the type, size, number and location of any First Homes in a development
- Any queries should be sent to [housing.policy@sevenoaks.gov.uk](mailto:housing.policy@sevenoaks.gov.uk)

## Development Viability

6.1 The Government's Planning Practice Guidance makes clear that it is the responsibility of landowners and applicants to take into account any costs, including their own profit expectations and risks, and ensure that proposals for development are compliant with local policy. The price paid for land is not a relevant justification for failing to accord with relevant policies in the Core Strategy. It is important for developers and other parties buying (or interested in buying) land to have regard to the total cumulative cost of all requirements of relevant Core Strategy policies when agreeing a price for the land. Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the Core Strategy.

6.2 The Guidance sets out that the role for viability assessment is primarily at the plan-making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the Plan. The District Council commissioned a viability appraisal of its Core Strategy policies, including the provision of affordable housing (the Affordable Housing Viability Assessment). The appraisal supports the affordable housing policies contained in the Core Strategy and accompanying SPD. On this basis, the affordable housing policies set out in the Core Strategy are considered viable. Therefore all planning applications are expected to be compliant with the policy requirements set out in the Core Strategy.

6.3 It will be up to the applicant to demonstrate whether "particular circumstances" (PPG Paragraph: 007 Reference ID: 10-007-20190509) apply in their view, and justify the need for a site specific viability assessment at application stage. If the District Council is not satisfied an assessment is justified, the planning application will be progressed in accordance with the relevant Core Strategy policies. If the District Council agrees an assessment is justified, the applicant will be required to pay for the District Council to undertake an independent analysis of the site viability assessment. The District Council will commission its own choice of independent expert and the expert's fees will be agreed with the applicant. If the applicant refuses to pay, or fails to

pay for the District Council's commission, it will result in the planning application being refused.

- 6.4 On Build to Rent schemes, it is anticipated that a site specific viability assessment will be provided to inform clawback clauses in the S106 Agreement. The clawback clauses will specify an amount payable to the District Council in the event that homes are sold within the S106 covenant period. The clawback sum would be used to fund alternative affordable housing delivery, as set out in the SPD

## **How is affordable housing secured?**

- 7.1 A range of [template s106 legal agreements](#) are provided by the District Council. It is expected that these are used to secure affordable housing.

## **The District Council's affordable housing development providers**

- 8.1 A list of [preferred affordable housing development providers](#) is maintained and regularly updated. The list includes a range of Registered Providers. Other providers include Quercus Housing, the District Council's stand-alone affordable housing company.
- 8.2 Any new providers are expected to meet [adopted eligibility criteria](#), which will be assessed by the District Council on a case by case basis.

## **How are financial contributions used?**

- 9.1 Contributions are used in the way set out in the Affordable Housing SPD (2011). New affordable housing funded through financial contributions, may be delivered by other providers who are not Registered Providers.

## **Rural Exceptions Housing**

- 10.1 In line with paragraph 78 of the NPPF, proposals for housing in rural areas to meet a specific local need (known as rural exceptions housing) may be permitted as an exception to other Core Strategy policies. This is set out in Core Strategy Policy SP4.
- 10.2 It is expected that developments of rural exceptions housing will provide



100% affordable housing to meet identified local housing needs. Independent assessment of local housing needs is carried out by the approved Rural Housing Enabler for Kent, and should be updated at least once every five years.

10.3 On rare occasions, and in accordance with paragraph 78 of the NPPF, proposals may include an element of open market housing to facilitate delivery of affordable housing. In these circumstances, the applicant will need to demonstrate to the satisfaction of the District Council that a scheme, which does not rely on market housing, has been fully considered and why it has been discounted or considered to be unviable.

10.4 Where the Council is satisfied that an element of open market housing is required, it will be expected, in the first instance, to be used to meet identified local housing needs, including housing for local essential workers, older people and plots for self-build.

## **Appendix A: Designated Rural Areas under S157 Housing Act 1985**

There are three pathways for an area to achieve Designated Rural Area status. These are:

- the area is within a National Park;
- the area is within an Area of Outstanding Natural Beauty (AONB);
- the area is designated by order of the Secretary of State as a rural area.

### **Whole parish designation, by order of the Secretary of State**

- Badgers Mount
- Brasted
- Chiddingstone
- Cowden
- Crockenhill
- Eynsford
- Farningham
- Fawkham
- Halstead
- Hever
- Knockholt
- Leigh
- Penshurst
- Seal
- Sevenoaks Weald
- Shoreham
- Sundridge with Ide Hill

**Parishes wholly outside of a Designated Rural Area :**

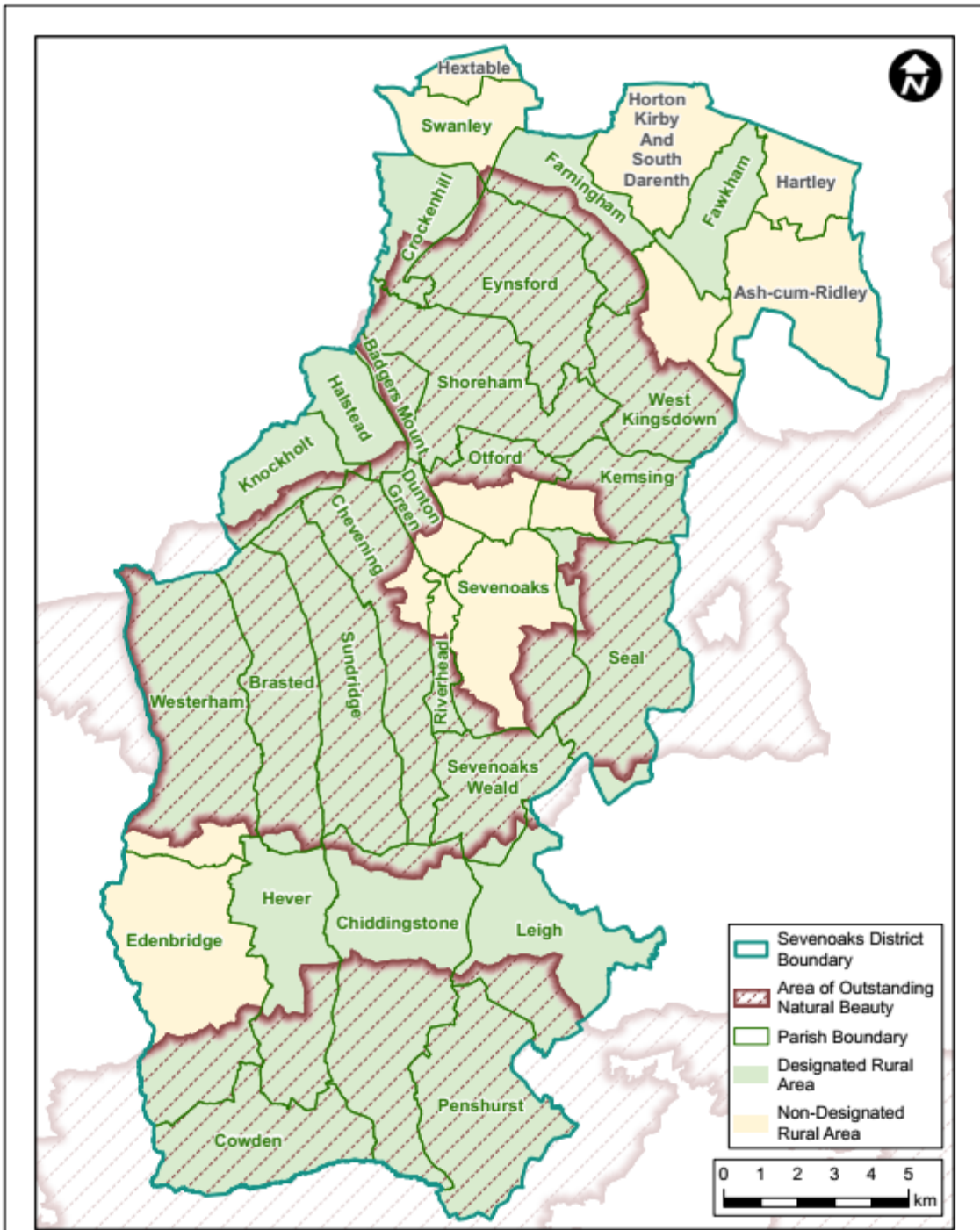
- Ash Cum Ridley
- Hartley
- Hextable
- Horton Kirby and South Darent


**Parishes partly within a Designated Rural Area, i.e. applies to those areas within an AONB:**

- Chevening
- Dunton Green
- Edenbridge
- Kemsing
- Otford
- Riverhead
- Sevenoaks
- Swanley
- West Kingsdown
- Westerham

The list above is intended as a helpful guide. For a definitive position on whether a site falls within a Designated Rural Area (DRA), please contact the Planning Policy Team.

## Appendix B: Map of Designated Rural Areas



 <p><b>Sevenoaks</b> DISTRICT COUNCIL</p> <p>© Crown copyright and database rights 2023 Ordnance Survey 100019428</p>	Designated Rural Areas in Sevenoaks District under S157 of the Housing Act 1985	
	Scale: 1:135,000 @ A4 Date: January 2023	Produced by the GIS Team, Sevenoaks District Council

## **Appendix C: Vacant Buildings**

### **What is Vacant Building Credit?**

Vacant building credit only applies in the following circumstances:

- There is a building in existence at the time the decision is made on the application. Buildings already demolished cannot count.
- The building must be vacant at the time of the decision. Occupied or partly occupied buildings cannot count, neither can occupied buildings that are expected to become vacant.
- The building must be brought back into use or demolished as part of the development. Vacant buildings on a site that do not form part of the development proposal cannot count.

### **How is it calculated?**

The NPPG states that the vacant building credit should be calculated by deducting the gross vacant building floorspace from the gross floorspace of the new development. Council policy calculates affordable housing requirement in numbers of units rather than floorspace and it will apply the vacant building credit as follows:

1. Subtract the qualifying gross vacant floorspace from the gross proposed floorspace to obtain the net increase in floorspace of the development.
2. Divide the net change in floorspace by the proposed floorspace to establish the net floorspace change as a proportion.
3. Establish the affordable housing requirement in units for the development based on Core Strategy policy, the SPD and updated context to policy set out above.
4. Multiply the affordable housing requirement by the net floorspace proportion to establish a revised requirement in terms of numbers of units.

For example if the development is for 90 units with a gross floorspace of 8,000 sq m and the existing qualifying vacant floorspace is 2,000 sq m then the calculation is as follows:

1. The net change in floorspace is 6,000 sq m (8,000 – 2,000)
2. The net change is 75% of the gross floorspace proposed (6,000/8,000)
3. The original affordable housing requirement is 36 units (40% of 90)
4. The new requirement is 27 units (75% of 36)

In developments where the affordable housing is in the form of a financial contribution, the contribution is calculated following the methodology in the SPD and updated context to policy set out above, using the net floorspace proportion.

In all cases where vacant building credit is sought, the applicant will need to provide evidence that the building meets the vacancy test, provide details of the floorspace of the proposed development and the vacant building and a calculation of the revised requirement following the approach above.