

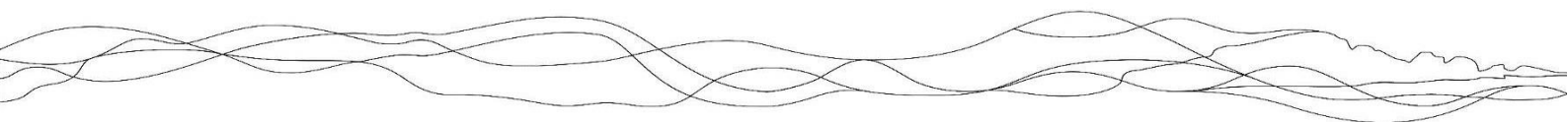
Affordable Housing Supplementary Planning Document



South Downs Local Plan

CONSULTATION DRAFT

24th September – 19th November 2019



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I. INTRODUCTION

Policies covered:

- **Policy SD28:** Affordable Homes
- **Policy SD29:** Rural Exception Sites

Background

- 1.1** The South Downs Local Plan (SDLP) was adopted on 02 July 2019. The introduction to the SDLP sets out the context of the statutory purposes and duty that govern all national park activities. In carrying out its purposes, the South Downs National Park Authority (SDNPA) has a duty to seek to foster the economic and social well-being of the local communities within the National Park. The English National Parks Vision and Circular further sets out the Government's expectation that *new housing will be focused on meeting affordable housing requirements, supporting local employment opportunities and key services.*¹ The National Planning Policy Framework (NPPF) further sets out that *the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including those who require affordable housing.*²
- 1.2** There is substantial evidence which shows that most privately provided residential property in the National Park has become unaffordable to families and individuals on modest incomes. House prices within the National Park are significantly higher than in the wider sub-region, with the average house being sold costing some fourteen times the average salary (compared to around eight times average salary across England and Wales as a whole). The result is that more people and families are struggling to meet the cost of accommodation, and younger people in particular are discouraged from remaining or settling in the area.
- 1.3** To support the duty and help to address these issues, the SDLP includes two policies that require new residential development to provide affordable housing:
- **Policy SD28: Affordable Homes** sets out a requirement for residential developments of 3 or more homes to provide for affordable housing. This provision should be on-site on sites with capacity for 4 or more homes. The level of provision is determined by the overall capacity of the site in terms of potential number of homes, with a minimum 50% of the total to be affordable on sites of 11 or more homes. The policy also sets out how many affordable homes should be provided as either social rented or affordable rented tenure (as opposed to shared ownership or other forms of low-cost ownership).
 - **Policy SD29: Rural Exception Sites** sets a requirement that residential housing sites outside of settlement boundaries should provide 100% affordable housing. The precise mix of homes and tenures should be based on the local needs of the community, and provide specifically for local housing needs.

In addition, **Policy SD27: Mix of Homes** sets out a broad strategic mix of affordable dwelling sizes. **Policy SD25: Development Strategy**, and in particular paragraphs 7.15 and 7.16,

¹ English National Parks and the Broads: UK government vision and circular 2010 (Defra, 2010), paragraph 78

² National Planning Policy Framework (MHCLG, Feb 2019), paragraph 61

outlines the SDNPA's approach with respect to Whole Estate Plans and affordable housing. Policies SD27, SD28 and SD29 are replicated in **Appendix I** to this SPD.

Purpose of this SPD

- 1.4** The SPD provides further guidance to support the implementation of the Local Plan policies, in particular Policy SD28: Affordable Homes and Policy SD29: Rural Exception Sites. The SPD therefore supports Local Plan Objective 8: To protect and provide for the social and economic wellbeing of National Park communities supporting local jobs, affordable homes and local facilities. It covers a number of detailed matters which are set out in the Contents page of this document.

2. USING POLICY SD28: AFFORDABLE HOMES

Assessing 'gross capacity' and artificial subdivision of sites

- 2.1** The capacity of sites in the national park to accommodate development will depend on a number of factors. Most importantly, all developments must be 'landscape-led' and thereby enhance landscape character. But within this, it should also make appropriate and efficient use of the land.
- 2.2** Policy SD28 includes thresholds that refer to 'gross capacity'. This means that the development layout and design, and the sizes of houses and their plots, will be expected to reflect SDLP (and where relevant Neighbourhood Plan) policies.
- 2.3** In assessing site capacity, the SDNPA will consider carefully whether the number of homes proposed makes efficient and appropriate use of the site. Particular regard will be had to SDLP Strategic Policies SD4: Landscape Character, SD5: Design, and SD27: Mix of Homes. If the development does not make optimum use of the site (for example, by providing uncharacteristically large plot sizes, and/or failing to provide smaller dwellings to meet identified housing needs), the SDNPA may conclude that the use of the land is not appropriate, and also that not enough affordable housing is being provided. It should be emphasised however that a landscape-led approach, which takes account of site specific factors, will always be used when assessing site capacity.
- 2.4** Policy SD28 part 5 states that developers may not circumvent the policy by artificially subdividing sites. The development site itself (as identified by the 'red line') should include all existing elements of built development that are being materially modified (e.g. extended, reconfigured or converted). As such, any existing dwelling or building on a plot proposed for development should only be excluded if there is no material alteration to that building proposed. If there are changes to the access, garden or parking to an existing dwelling or building that is necessary for the wider development to go ahead, the SDNPA may conclude that the land and building in question form part of the same development site.

- 2.5** Should two or more separate planning applications come forward for adjacent sites within the same ownership and/or which have a clear functional link, the SDNPA may conclude that the developments should be considered as a single scheme. The SDNPA will, in such cases, consider evidence including land transaction data, the closeness in time of the applications being made, and appropriate evidence of ownership at the times the respective applications were made.

Types of uses to which policy applies

- 2.6** Strategic Policy SD28 Affordable Homes is applicable to all development proposals falling within the Use Class C3. Developments falling into the Use Class C1 (hotels) and C2 (residential institutions) do not attract the requirement for affordable housing. Use Classes C3 and C2 are defined as follows:

Use Class C3

Use as a dwelling house (whether or not as a sole or main residence) by

- a. a single person or by people to be regarded as forming a single household
- b. not more than six residents living together as a single household where care is provided for residents
- c. not more than six residents living together as a single household where no care is provided for residents (other than use within C4)

Use Class C2

Residential Institutions - Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses))

There is a clearer distinction between Use Classes C1 and C3, as C1 applies to hotels and guesthouses that contain no capacity for use as a separate, independent unit of accommodation and provide no significant element of care (notwithstanding the ancillary provision of a manager's flat).

- 2.7** Historically Use Class C2 has been used for the more traditional forms of residential institutions providing care such as 'nursing homes' and 'care homes' provided by Local Authorities and some private companies. However, the provision of care has increasingly taken alternative forms consisting of 'assisted living', 'extra care', 'retirement village' and 'sheltered accommodation' which are different from a 'nursing home'. These alternative forms of care often take the form of self-contained dwellings (i.e. residents have their own front door where differing levels of care are provided to individuals living in those dwellings, which contain all the domestic facilities to enable independent living), as part of a wider housing complex or estate. Given this, the distinction between Use Class C2 and C3 has become less clear.
- 2.8** Where there is doubt over the use class, the SDNPA will presume in favour of Use Class C3, and the onus will be on the applicant to demonstrate otherwise. This bears in mind the identified need for affordable specialist housing including for older people.³ Each proposal will be assessed on its own merits to assess the level of care being provided to the individuals and the constituent parts that make up the wider care provision. The amount of care provided at a care home must be significant, and the care provided must be the primary reason why residents seek to live in the care home. To this end, the SDNPA will begin the case by case consideration for compliance

³ South Downs Local Plan (2014-33) paragraphs 7.42 to 7.44 and Figure 7.3

with Use Class C2 where the units are restricted to those of state pension age or above and requiring a minimum of 4 hours of care needs per week. Outside of this definition, and if the units are self-contained, they will be considered as Use Class C3.

2.9 Elements to consider when making the judgement include:

- Built form of the development (e.g. scale, facilities provided such as private kitchens), dwelling types, dwelling features, building standards);
- Tenure (for sale, shared ownership, leasehold, mix);
- Allocation and eligibility criteria (age restriction, individual assessment of and minimum level of care needs etc);
- Level of service charge (whether these are well beyond those that might reasonably be expected in non-institutional accommodation);
- Provision of meals and other services (is it linked to the needs of the individual's personal care),
- Provision of communal facilities (kitchen, social areas, therapy rooms, offices and other areas for staff), and
- Housing and other support provisions (care provider / agency on site, multiple care agencies providing care).

2.10 These elements will be weighed up to determine whether a proposal falls within Use Class C2 or C3. For a proposed development to fall within Use Class C2, whether residents qualify as 'people in need of care' is key. Care can include medical care but extends to other forms of care needs due to age or disablement. In contrast, residents of extra-care housing, may be in receipt of care, but retain a degree of independence beyond that enjoyed by occupants of a care home and would therefore still be considered a C3 Use.

2.11 The facilities of the dwelling will also be taken into consideration, for example whether they include a private front door and lounge / kitchen area, and the extent to which the dwelling can function as a separate unit. It is necessary to look at the interrelationship between the dwellings and the rest of the development, taking into account the primary purpose of the development as a whole.

Affordable housing tenures

2.12 'Affordable housing' is an umbrella term that covers housing provided to eligible households whose needs are not met by the market, with eligibility based on local incomes and local house prices. This includes a number of different ownership and/or rental options, referred to in this document as tenures. The main types of affordable housing are 'social rented', 'affordable rented' and 'intermediate' affordable housing.

- **Social rented housing** is the SDNPA's preferred form of rented affordable tenure, as they are the most affordable to those in greatest need. It 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.⁴ 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 housing that must be rented at no more than 80 per cent of the local market rent (including service charges, where applicable). It should also be provided at a level of rent (and any additional service charge) which does not exceed the Local Housing Allowance (LHA) for the relevant area.⁵
- **Shared Ownership housing** describes housing where the occupier purchases with a mortgage part of a home and pays rent on the remainder. These are primarily provided by Registered Providers. Due to the high cost of housing in the National Park, shared ownership housing should offer buyers a maximum initial share of 25% of the open market value of the dwelling. The annual rental charges on the unsold equity (share) plus any service charges should be no more than 2.75% of this share. Shared ownership affordable housing should be available in perpetuity to those in housing need if the house is sold on in future, with the exception that occupants may increase (or 'staircase') their equity share towards outright ownership. Flexibility may be necessary to take account of affordable housing providers' business models, provided the core objective of meeting the housing needs of those who cannot afford market prices are met.
- **Intermediate home ownership** can include discounted market sales housing, shared equity, shared ownership and equity loans. The NPPF provides further details.
 - **Discounted market sales housing** is a form of intermediate home ownership and is defined in the NPPF. The NPPF states that this should be provided at a discount of **no less than 20%** below market value. Subject to evidence provided on a case-by-case basis, the SDNPA **will seek a discount of 40% below local market value** to reflect the high cost of buying a home in the National Park. The level of discount should ultimately reflect what is realistically affordable to a lower income household on a lower quartile salary. The discount should 'run with the land' such that if the house is sold on in future, the same level of discount will apply for future eligible buyers.
- Where the site relates to an endorsed Whole Estate Plan (WEP) and the landowner is looking to retain the housing themselves to deliver as affordable, the affordable housing must be provided in perpetuity, the tenures on which they are provided will be expected to reflect the tenures above, and be secured by S106 Agreement.

2.13 The National Planning Policy Framework (NPPF) was revised in 2018 and again in 2019. The revised NPPF changed the definition of 'affordable housing' as applies to national policy, to include 'starter homes' and provide more detailed explanation of different forms of rented affordable housing and low-cost ownership. For avoidance of doubt, the definitions set out in the SDLP Glossary will take precedence over national definitions. However it may be appropriate to refer to the national definitions, where these provide greater detail.

⁴ Current guidance on setting a social rent formula is contained in 'Guidance on Rents for Social Housing' (DCLG, May 2014), which is published on gov.uk. It is likely that a new formula will be introduced from 1 April 2020 – see <https://www.gov.uk/housing-local-and-community/housing> for updates.

⁵ Current Local Housing Allowance rates can be viewed on the Directgov website at <https://lha-direct.voa.gov.uk/>

2.14 A legal agreement ('Section 106 Agreement') will set out the precise tenure restrictions applicable to a particular scheme.

Mix of dwelling sizes and tenures

2.15 Policy SD28 seeks to maximise delivery of affordable housing to meet local need, whilst providing a tenure mix that reflects the needs of the National Park as a whole. Paragraph 7.59 of the SDLP confirms that an alternative tenure mix to that set out in Policy SD28 may be proposed to reflect needs specific to the local community, provided this is robustly evidenced and supported by the relevant housing provider.

2.16 It is clear from evidence underpinning the SDLP that the overriding housing need in the National Park is for low-cost rented accommodation. Therefore any alternative tenure mix that reduces the rented element should be underpinned by an up-to-date local housing needs assessment. This should take account of evidence both from the Local Housing Register, and from a thorough analysis of locally expressed needs which has looked at future demographic change as well as the immediate existing need. This evidence should be based on recent data that is no more than 2 years old, and endorsed by the relevant local housing authority (generally this will be a local housing enabler employed by the relevant housing authority) or community led housing group.

2.17 Affordable dwelling sizes should also reflect Policy SD27: Mix of Homes (part 1(a)). This reflects evidence of most affordable housing need being for smaller dwellings. The tenure mix across dwelling sizes should be proportionate, to achieve an even spread of unit sizes for the different tenures. Regard should be had to any local housing needs evidence in achieving the broad mix required whilst also rounding to whole numbers.

2.18 **Figure I** provides a worked example to illustrate this.

Applying occupancy restrictions and local connections criteria

2.19 Policy SD28 part 4 states that occupancy conditions and local connections criteria will be applied to affordable housing to ensure local needs are met. The SDLP in paragraph 7.61 states that local connections will be assessed in a cascade manner, as outlined in the S106 agreement, to include the respective needs of:

- i) the relevant settlement, then
- ii) the parish, then
- iii) the wider area including nearby settlements and parishes within the National Park.

Therefore, in line with paragraph 7.61 of the SDLP, the following cascade will be followed when prioritising the allocation of homes to local people in need of affordable housing:

- | | |
|-------------|--|
| Priority 1: | Local connection to the settlement where development is proposed; |
| Priority 2: | Local connection to the parish where development is proposed, and partly or wholly within the South Downs National Park; |

- Priority 3: Local connection to the contiguous neighbouring parish to the parish within which development is proposed, and partly or wholly within the South Downs National Park; and finally
- Priority 4: Local connection to another nearby parish partly or wholly within the South Downs National Park.

FIGURE 1: WORKED EXAMPLE OF HOUSING MIX FOR 10 AFFORDABLE HOMES AS PART OF A 20 DWELLING SCHEME

A scheme of 20 dwellings is proposed. 50% of these dwellings (10 dwellings) are provided as affordable homes in line with Policy SD28 1(a). A suitable mix of sizes and tenures may be as follows:				
Dwelling size (no. bedrooms)	Proportion of dwelling sizes (Policy SD27)	Rented (at least 75% of affordable units) (Policy SD28)	Intermediate (up to 25% of affordable units) (Policy SD28)	Total
1 bedroom	35%	2 (see Note 3)	1	3
2 bedrooms	35%	3 (see Notes 1 & 3)	1	4
3 bedrooms	25%	2	0	2
4 bedrooms	5%	1	0	1 (see Note 4)
Total		8 (see Note 2)	2	10
It should be noted that, as the mix must be in whole numbers, it has been necessary to round figures up and down as appropriate:				
<ol style="list-style-type: none"> 1. It is appropriate to provide more 2 bedroom dwellings as Policy SD27 states that 1 bedroom affordable dwellings may be substituted with 2 bedroom affordable dwellings. 2. It is appropriate to over-provide rented units against the 75% target overall. Therefore 8 of 10 units (80% of overall total) are provided as rented. 3. 5 of 7 units with 1 or 2 bedrooms are provided as rented, which is equivalent to 71%. However this slight undersupply is compensated for by 100% of the 3-bedroom units being provided as rented. 4. The 4-bedroom unit represents 10% of the total. An alternative acceptable approach may be to provide 3x3-bedroom rented affordable homes and no 4-bedroom unit, dependent on any local evidence which may provide a steer. 				

2.20 Paragraph 7.63 of the SDLP states that local connections will be determined by the Authority, parish council and relevant housing authority primarily. Paragraph 7.81, with respect to Rural Exception Sites, also cross-refers to the requirement for conditions to ensure the needs of local

people are being met. For avoidance of doubt, such conditions and criteria will be set out in the Section 106 Agreement and/or in the planning permission conditions. The specific local connection criteria will depend on where the scheme is proposed. Criteria applied to a specific site may reflect evidence provided by relevant community-led and legally constituted organisations or Community Land Trusts where applicable. Generally, the following will apply:

- a) Where there is a Neighbourhood Plan (NDP) which is 'made' or at an advanced stage of preparation, the relevant local connections policy will be used where included in the NDP.
- b) If the above does not apply, the starting point will be the most up-to-date housing allocations policy definition of 'local connection' that is applied by the relevant local housing authority, as applies in the South Downs National Park or in Designated Rural Areas⁶ where specified, provided this prioritises need within South Downs National Park settlements or parishes and follows the cascade set out in paragraph 7.61 of the SDLP.
- c) Where neither a. nor b. apply, the following will define a person or household considered to have a local connection. The area to which this relates will be dependent on where has been reached in the cascade set out in paragraph 2.20 above.
 - i. Ordinarily resident in the National Park, or
 - ii. Previously ordinarily resident, or
 - iii. Currently employed by, or is due to take up permanent employment with, an established employer with a registered business premises based in the relevant area, or
 - iv. Has demonstrated a need to or be supported by a family member who is ordinarily resident.
- d) The cascade from settlement / parish / wider area within the South Downs National Park will be applied in accordance with the availability of prospective residents on the relevant housing register(s) within each of these respectively.
- e) Where alternative criteria are proposed, for example to respond to the particular needs of a rural estate, large farm, or as expressed in a Neighbourhood Development Plan, this should be clearly evidenced. Material weight will be given to this when evidenced in an endorsed Whole Estate Plan or as otherwise robustly evidenced in respect of the specific circumstances of the scheme.

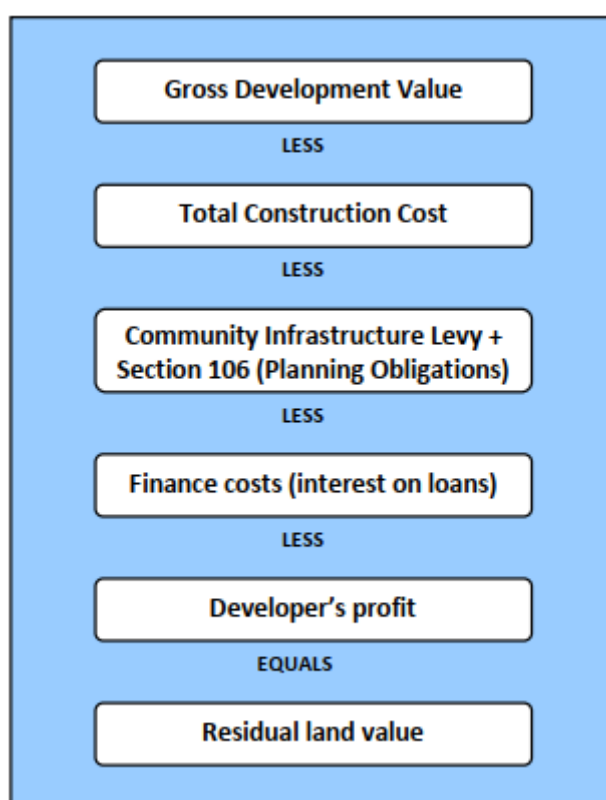
2.21 Occupancy conditions will normally be applied to limit future occupants to ensure the dwelling remains available to those with a local connection in perpetuity. Occupancy conditions may also be applied where there is a proven need for those with a particular work connection, in respect to maintaining the special qualities of the National Park. Regard will be had as appropriate to Development Management Policy SD32: New Agricultural and Forestry Workers' Dwellings.

⁶ Designated Rural Areas are defined in the NPPF 2018 as National Parks, Areas of Outstanding Natural Beauty and areas designated as 'rural' under Section 157 of the Housing Act 1985. Therefore the whole of the South Downs National Park is a Designated Rural Area.

Viability appraisal

- 2.22** Policy SD28 part 2 recognises that, exceptionally, provision of affordable housing in a way that complies with the policy may render a development financially unviable. Paragraphs 7.64 to 7.68 of the SDLP set out the expectations of the SDNPA where this is considered to apply. A viability appraisal should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made publicly available. Reference should be made to Planning Practice Guidance for further advice on public availability.⁷
- 2.23** The SDLP is in line with the more detailed Planning Practice Guidance (PPG) with respect to viability and decision-making.⁸ Applicants should have full regard to this advice, in addition to complying with the SDLP. PPG makes clear that under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan (Paragraph 011 Reference ID: 10-011-20180724).
- 2.24** The starting point for a viability appraisal is to establish the ‘residual land value’ (RLV) for the site being developed. This is the amount that the developer can afford to pay for the development site, once all reasonable costs have been met. It is the difference between the value of the completed development on the one hand, and the overall cost of the development on the other. **Figure 2** shows in a simplified form how this calculation works.

FIGURE 2: RESIDUAL LAND VALUE

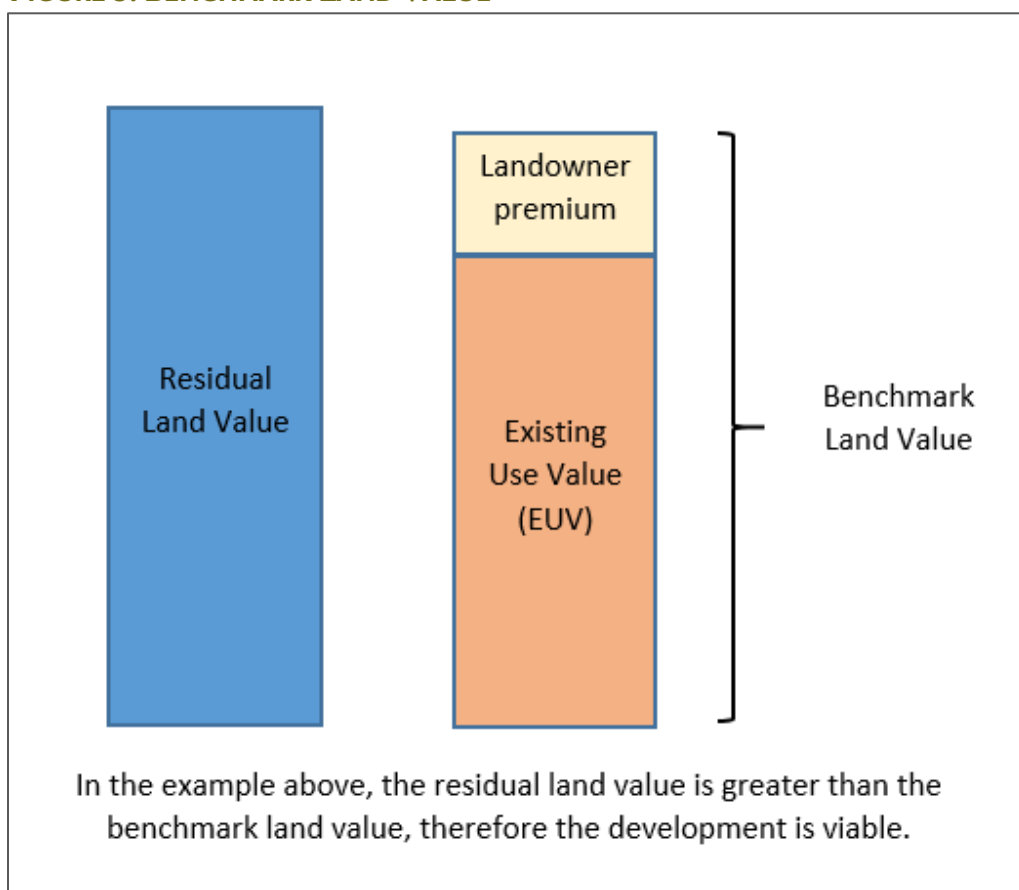


⁷ www.gov.uk/guidance/viability. See ‘Should a viability assessment be publicly available?’ Paragraph: 021 Reference ID: 10-021-20190509

⁸ www.gov.uk/guidance/viability. See Viability and decision taking, Paragraph: 007 to 021 Reference ID: 10-007-20180724 to 10-021-20180724

- 2.25** To establish whether a scheme is viable, the residual land value is compared with a benchmark land value (BLV). This is defined as the value of the site in its existing use (the ‘existing use value’ or ‘EUV’), plus a ‘premium for the landowner’ which is the minimum return at which it is considered a reasonable landowner would sell their land for development. The guideline landowner premium for sites with a non-agricultural use is 10% of EUV.⁹ **Figure 3** illustrates the RSL approach.
- 2.26** When assessing the viability of a scheme, a number of key inputs are required. **Figure 4** sets out the key inputs and some standard assumptions. It is important that each of these elements is transparently and robustly justified, with reference to independently sourced data and analysis. The SDNPA will usually conduct an independent review of any or all elements of this supporting evidence, which would be required to be funded by the applicant.

FIGURE 3: BENCHMARK LAND VALUE



⁹ A commonly used range assumed for appropriate EUV for previously developed sites is 10%-30% of EUV. For example see paragraph 3.46 of the Mayor of London Affordable Housing and Viability Supplementary Planning Guidance 2017 (GLA, 2017) – see <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/planning-guidance-and-practice-notes/affordable-housing-and-viability-supplementary-planning-guidance-spg>

FIGURE 4: CHECKLIST OF KEY INPUTS FOR VIABILITY APPRAISAL

Input	Elements	Standard assumption	Evidence
Gross Development Value (GDV)	<p>Expected sale value of open market homes</p> <p>Expected sale value of rented affordable homes</p> <p>Expected sale value of intermediate sale units</p> <p>Capitalised income from any commercial or non – residential elements of the scheme</p>	N/A – bespoke evidence only	<p>Based on real current market values for developments of comparable typology, and reflect that new-build properties tend to have a premium over resale properties.</p> <p>For the affordable housing element, whilst using a percentage of open market value can be a useful guideline, bespoke evidence must also be included (e.g. evidence from a registered provider, actual comparable sales data, or based on capitalised rent). Value of intermediate housing will vary depending on the tenure, location and other factors.</p>
Build cost	<p>Up-to-date data from the Building Costs Information Service (BCIS) (plus uplift for external works)</p> <p>Cost of demolition</p> <p>Site servicing and infrastructure costs</p> <p>Abnormal costs</p>	<p>BCIS median data plus a 15% uplift for the cost of external works and custom measures</p> <p>N/A – bespoke only</p>	An itemised cost plan, prepared by a professional and independent Quantity Surveyor (QS), will usually be appropriate, particularly where the project is complex and includes a number of bespoke elements or where build costs that deviate from the BCIS index are used.
Professional fees	<p>Estimated design & build professional fees (e.g. planning, architect, QS)</p> <p>Estimated planning application fee</p>	<p>6% of build costs.</p> <p>N/A – based on scheme</p>	Assumptions may be made based on standard professional practice. The basis for these assumptions should be soundly justified.

	Estimated legal fees	N/A	
	Estimated sales & marketing fees	1% of GDV	
Finance costs	The cost of borrowing money to provide upfront capital	Inclusive finance rate of up to 6.5% (APR) of borrowed capital	The APR assumed should take into consideration current market conditions for the area concerned (which may be different in the South Downs National Park compared with the national picture).
Community Infrastructure Levy and planning obligations	Community Infrastructure Levy (CIL) Planning obligations	See SDNPA CIL Charging Schedule N/A – based on scheme	CIL should be based on the development floorspace, taking account of any exemptions, and agreed with the SDNPA. Planning obligations, including Section 106 and Section 278, should be based on any site specific works necessary to make the development acceptable in planning terms, and include any additional policy requirements set out in the development plan.
Developer profit	Evidence that assumed profit margin represents level of risk	Up to 15% of GDV for open market housing 6% of GDV for affordable housing	Developer profit should take account of identified risk in respect of the scheme. Evidence should be provided; it should not be assumed that the upper end of the range will automatically be acceptable.
Existing use value (EUV)	The value of the site in its current use and condition	N/A – bespoke only	This should be based upon a valuation undertaken by a RICS accredited surveyor in line with RICS requirements for existing use valuations.
Landowner incentive premium to apply to EUV	N/A	10% for non-agricultural uses; case-by-case for agricultural use	As appropriate to reflect the circumstances of the site.

Financial contributions in lieu of on-site provision

2.27 In accordance with Policy SD28, financial contributions towards affordable housing will be accepted on sites with a gross capacity of 3 homes. Exceptionally, financial contributions in lieu will also be accepted on proposals of 4 to 10 dwellings where evidence has been provided, analysed and agreed by the Authority that on-site provision of affordable housing is not feasible.

On larger sites of 11 or more homes the expectation will be for on-site provision of affordable homes. All residential development (including self-build and custom housebuilding) is subject to Policy SD28.

- 2.28** Funds raised from such financial contributions will be used primarily to increase the overall number of affordable homes, or on occasion to achieve an optimum tenure mix to meet local need. For example, funds may be used to cross-subsidise delivery of rural exception sites to ensure that 100% affordable housing is achieved. A legal agreement will be required that sets out the terms of payment, and that limits its spending to relate to only schemes that address local needs.
- 2.29** The Authority’s approach to calculating the in lieu financial contribution, is to base the calculation on the cost of providing affordable housing on another site without subsidy. The financial contribution is based on the development cost (comprising build and land costs) minus the revenue that can be expected from selling to a Housing Association or other Registered Provider. The detailed methodology is set out in **Appendix 2** and in lieu financial contributions will be accepted in line with the amounts set out in **Figure 5** below. These may be reviewed on an annual basis, and updated as necessary, to reflect the changing cost of affordable housing provision.

FIGURE 5: AFFORDABLE HOUSING IN LIEU FINANCIAL CONTRIBUTION PAYMENT TABLE, 2019

Development size	Affordable housing requirement	In lieu financial contribution
3 homes	Meaningful financial contribution	£46,832 (which is equivalent to half of an affordable home, and subject to site specific circumstances)
4-5 homes	1 affordable home	£93,664
6-7 homes	2 affordable homes	£163,181
8 – 9 homes	3 affordable homes	£244,772
10 homes	4 affordable homes	£326,363
11+ homes	Minimum 50% of homes	£93,664 per affordable home necessary to meet the 50% minimum

Dealing with conversions

- 2.30** Policy SD28 applies to the gross site capacity. The policy equally applies to the conversion of an existing building to create or increase the number of C3 residential units, irrespective of the existing floorspace. So, for example, if a large dwelling is proposed to be converted into a total of 4 smaller dwellings (even with no net increase in floorspace), there would be a requirement to provide 1 affordable home in line with Policy SD28.
- 2.31** Vacant building credit may apply with respect to existing floorspace if the relevant tests are met. See section below on Vacant Building Credit.

Applying the Vacant Building Credit

2.32 The NPPF (paragraph 63) provides for a 'vacant building credit' (VBC), in effect reducing the requirement for affordable housing in some instances where a development is proposed on previously developed land that accommodates vacant buildings. National Planning Practice Guidance provides further guidance on how this should apply.¹⁰ In effect, the following must be demonstrated in order for VBC to apply:

- i) The relevant buildings must not have been in continuous use for any 6 months during the last 3 years up to the date that the planning application is submitted;
- ii) The whole building must be vacant;
- iii) The relevant buildings are not 'abandoned' or vacated solely for the purpose of redevelopment.

2.33 For avoidance of doubt, applicants cannot, for the same building, apply both VBC and exemption from Community Infrastructure Levy (in relation to vacant buildings brought back into use)¹¹.

2.34 The practice guidance explains that the gross floorspace of vacant buildings being brought back into use or demolished will be 'netted off' from the total floorspace of the new development proposed. VBC does not apply to buildings that are either currently or have recently been in active use, or have been abandoned. If the building in question has been made vacant for the sole purpose of re-development, it is unlikely that the VBC will apply.

2.35 As Policies SD28 and SD29 require provision of on-site affordable units, the following methodology will apply:

- i) Calculate affordable housing provision for the whole development, in line with Policy SD28 or SD29;
- ii) Calculate the existing floorspace of buildings that are 'vacant' (see paragraph 2.32 above) as a proportion of the floorspace of the whole proposed development – this gives the VBC discount as a percentage;
- iii) Subtract the percentage credit from 100% to give the percentage multiplier to apply to the affordable housing element;
- iv) Apply the VBC discount as a percentage to the normal affordable housing requirement (as calculated in (i));
- v) If a fraction of a unit results (e.g. 3.2 units), the fraction will translate to a financial contribution as applies to the contribution that would normally be sought for one affordable unit (as set out in Figure 5 or subsequent updates), to be sought in addition to on-site provision¹²;

¹⁰ Planning Practice Guidance on Planning Obligations, paragraphs 026-028. (Reference ID: 23b-025-20190315, 23b-026-20190315, 23b-027-20190315)

¹¹ See the Community Infrastructure Levy Regulations 2010 Regulation 40 as amended by the Community Infrastructure Levy (Amendment) Regulations 2014

¹² If applying VBC discount results in less than one whole affordable unit being required on a site, a financial contribution will be accepted in lieu of on-site provision.

- vi) When Policy SD28 applies, the on-site affordable housing tenure should reflect as closely as possible the full quota of affordable rented, as required by Policy SD28 as applied to the whole development.

2.36 Figure 6 below sets out a worked example of how the VBC would be applied:

FIGURE 6: WORKED EXAMPLE OF HOW TO APPLY THE VACANT BUILDING CREDIT

A scheme of 9 dwellings is proposed with a total gross floorspace area of 800m² within a settlement boundary. However there exists on the site a vacant workshop building (which is eligible to trigger VBC) that has a gross floorspace of 160m².

The number of affordable units to actually be provided is worked out as follows:

- i) Calculate the affordable housing provision for the whole development in line with Policy SD28-
 - 3 affordable homes, at least 2 of which are rented affordable tenure
- ii) Divide the vacant building floorspace by the total floorspace-
 - $160 / 800 = 0.2$ or 20% 'credit'
- iii) Subtract the 'credit' from 100%-
 - $100\% - 20\% = 80\%$
- iv) Apply the VBC discount as a percentage to the normal affordable housing requirement-
 $80\% \times 3 = 2.4$ units
- v) Translate the fraction of a unit to a financial contribution, with reference to Figure 5 or subsequent updates-
 0.4 of a unit \times £93,664 equals £37,465.60
- vi) Calculate unit tenure to as closely as possible reflect the Policy SD28 requirement for affordable rented tenure, as applies to the whole development-
2 rented affordable units would normally be sought from a development of 9 dwellings therefore both on-site affordable units should be an affordable rented tenure.

In summary, the development should therefore provide:

- 2 rented affordable units, and
- a financial contribution of £37,465.60 (or the equivalent pro-rata amount arising from updates to Figure 5).

2.37 If it has been agreed that a financial contribution in lieu of on-site affordable housing is appropriate, the amount should reflect the scale of provision set out in Figure 5, after the VBC has been applied using the methodology above. In the example above, the amount would be £200,646.60 (i.e. £163,181 plus £37,465.60) or the equivalent figure following annual review of Figure 5.

Agricultural forestry and estate workers

2.38 The SDLP recognises the importance of providing ‘tied’ dwellings for occupation by essential rural workers. Policy SD32: New Agricultural and Forestry Workers’ Dwellings seeks to protect existing such dwellings, and allows for new such dwellings in appropriate circumstances.

2.39 With respect to tenure, an occupational tie provides in effect a form of ‘key worker housing’. As there is no requirement for such a dwelling to provide a low-rent or intermediate tenure, it does not automatically make a dwelling affordable, and may not be available to all those who qualify as having a local connection. Such a dwelling can however be defined as ‘affordable’ for the purposes of Policy SD28 if the tenure provided is in line with the definitions given in the SDLP and in paragraph 2.12 of this SPD.

2.40 With respect to rural workers, it is recognised that large rural estates employ people who are seen as integral to the long term viability of the estate and the sustainability of the wider community to which it relates, but are not defined as agriculture or forestry workers. Nevertheless, they may still qualify as having a need for affordable housing, and be able to demonstrate a local connection as defined in the SDLP and in this SPD.

2.41 Paragraph 7.16 of the SDLP states:

Where new dwellings are proposed as part of a Whole Estate Plan, these should meet the priority housing needs of the local area, hence should be affordable homes, or accommodate full-time, rural workers as defined by Policy SD32 and its supporting text. An exception may be made where to do so would make the delivery of multiple benefits to ecosystem services and the special qualities of the park unviable, provided clear evidence is provided in the endorsed Estate or Farm Plan.

2.42 The exception described above may apply to a specific identified need for affordable accommodation that is not strictly within the definition of either ‘affordable housing’ or ‘agricultural worker or forestry worker’s dwelling’. If an applicant considers that an exception case can be made such that these definitions are ‘flexed’, whilst still meeting the core objective of meeting local affordable housing needs, this will be viewed in light of the following:

- Is there an endorsed Whole Estate Plan which provides robust evidence and justification for such a departure, including demonstration of the multifunctional benefits that could be delivered through the delivery of the housing?
- Does the proposed scheme provide for people or families in the local settlement or parish who are in need of affordable housing, but are not working for the estate or organisation who proposes development?

The existence of an endorsed Whole Estate Plan will potentially provide weight to any exception case made. Consideration of rural workers’ needs may also, however, be material when assessing proposals not covered by a Whole Estate Plan on a case by case basis.

Delivering affordable housing

2.43 Developers are responsible for delivering affordable housing in line with planning policy, or to comply with a legal agreement or condition. This means that the developer should partner with a registered or other reputable provider of affordable housing. Alternatively the developer must demonstrate that they are able to themselves provide and manage the affordable housing to the

same quality and cost to the occupier as an RP. Whoever provides the affordable housing must be willing to enter into a nominations agreement with the relevant local housing authority.

- 2.44** The SDNPA strongly encourages the involvement of Community Land Trusts (CLTs) or other community-led housing providers in delivering community-driven affordable housing. This is emphasised in the SDLP in paragraph 7.77. A CLT is set up by a local community to acquire land for building affordable housing, and then oversee the homes being built and maintain some degree of control over their management into the future. Some CLTs may choose to enter into partnerships with other organisations who can offer experience and/or capital, such as a Registered Provider (RP) (see below).
- 2.45** Registered Providers (RPs) are formally recognised providers of low-cost social housing for people in need. Most RPs are housing associations, although other organisations such as charities and not-for-profit private companies can also be RPs. It is RPs who are best placed to partner with developers tasked with delivering affordable housing, unless there is a CLT or CLT/RP partnership set up for the local area who can take on the affordable dwellings.
- 2.46** It is recognised that there are particular challenges associated with providing very small numbers of affordable dwellings on a site. Whilst options may be more limited compared with larger developments, there are specialist providers of affordable housing who can take on small numbers, or even individual units. Where discounted market housing is agreed as acceptable, it may be appropriate to deliver the affordable homes without a third party provider being involved at all (although the discount provided will need to run with the land in perpetuity).
- 2.47** Whichever delivery model is used, the advice of both the planning authority and a suitable housing enabler¹³ should be sought at an early stage. This will allow any practical barriers to delivery to be addressed, ensure that planning obligations are fulfilled, and maximise the benefits to the local community.

Lewes Low Cost Housing

- 2.48** The Lewes Neighbourhood Development Plan (LNDP) forms part of the development plan for Lewes town.¹⁴ It includes Policy PL1 A (part 3) which requires development to maximise the amount of Lewes Low Cost Housing (LLCH) to meet local housing need, unless proven to be undeliverable. LLCH is defined as:

“the maximum cost affordable on the average Lewes salary whether for sale or rent. The Government’s definition of 80% of market value is not “affordable” on the average Lewes income of £23,000 or house-hold income of less than £30,000, and for that reason will not address the community’s housing need.”

- 2.49** In Lewes town, the LLCH model will apply. Rented affordable dwellings should be provided at a rent level based on income rather than market rents, to reflect the aims of the LLCH policy.¹⁵

¹³ Most local housing authorities covering the SDNP have a rural housing enabler, or work in partnership with others to provide support for rural affordable housing. Advice can also be sought from the housing authority itself. SDNPA can provide suitable contacts on request.

¹⁴ The Lewes Neighbourhood Plan is published on the SDNPA website at www.southdowns.gov.uk/planningpolicy, and also at www.lewes4all.uk

¹⁵ Social rented dwellings are defined in the South Downs Local Plan Glossary

Intermediate housing for sale should be capped at a level which is 5 times the average Lewes household income.

- 2.50** The requirement to maximise LLCH is important, but where there is conflict, greater weight should be given to Strategic Policy SD28: Affordable Homes. Where viability is a genuine barrier to delivery of LLCH, the applicant will be required to demonstrate this by submitting a robust viability appraisal. If a policy-compliant provision of affordable housing which meets both the SDLP and LNDP is not deliverable, an appropriate balance between the cascade in paragraph 7.65 of the SDLP and provision of LLCH will be sought. Some rented affordable dwellings should in any case be provided. Therefore any viability appraisal should test appropriate scenarios that have been agreed with the Authority in advance.

Affordable Housing Review Mechanisms

- 2.50** The assessment of development viability at planning application stage may, exceptionally, result in a reduction of the levels of affordable housing that a developer might have to provide, when compared to development plan policy requirements. This reduces the SDNPA's ability to meet the need for affordable housing across the National Park. Therefore, to maximise affordable housing delivery the SDNPA will use review mechanisms to ensure that any future improvements in the viability of developments, for example as a result of house price rises or reductions in build costs, help to deliver additional affordable housing.
- 2.51** Review mechanisms allow for a reappraisal of a development and only apply where the full level of affordable housing was not secured as required by policy SD28 of the SDLP. These mechanisms are required in order to maximise affordable housing and are applied particularly where some degree of uncertainty around the viability of the scheme existed at the time at which the permission was granted. They allow increases in S106 contributions to be required after permission is granted to reflect any increases in the value of a development. In no circumstances will reviews be used to reduce the level of affordable housing contributions required; any proposed reduction would instead require a new or modified planning permission.
- 2.52** A review will be achieved through an 'Early review' and / or a 'Late stage review'. The review mechanism must be based on transparent and robust data as set out in Figure 2 above, albeit with specific assumptions to take account of the timings of the review and specifics of the site.

Early review

- 2.53** It is important to ensure that the amount of affordable housing is maximised, and that the early completion of development is incentivised. As a guideline, developments of 11 dwellings or more will be subject to an early review which is triggered if sufficient progress on construction of the approved development has not been achieved after 2 years from the date of the permission being granted (or at an alternative time as agreed with the SDNPA). This trigger will apply both where affordable housing is provided on-site and where provided as a financial contribution in lieu of affordable housing.
- 2.54** The term 'sufficient progress' means the completion of all ground preparations works, the foundations for the core of the development (or that particular phase). Other triggers may be set out in the Section 106 agreement as appropriate. If the agreed level of progress has been made, the review will not be triggered.

- 2.55** The need or otherwise for a review will be discussed with the applicant after two years. It will be provided and funded by the applicant who must also cover the full costs to the SDNPA of negotiating and assessing the review.
- 2.56** The review will be expected to compare the estimated GDV of the development at the time permission was granted with the predicted GDV, along with the estimated build costs and any other relevant costs, at the time permission was granted compared with the time of the review. The assumed percentage of developer profit and professional fees as agreed at the time of the permission will generally not have changed and shall be factored into the assessment.
- 2.57** Due to the early stage of this review, the SDNPA will expect that any increase in affordable housing achieved will be provided on-site, albeit material considerations assessed at the time (aside from viability) will also be taken into account. The level of provision expected by the SDNPA will be capped to no more than that required by Local Plan policy SD28 or SD29.
- 2.58** If the surplus is insufficient to provide affordable housing on site then it should be paid to the SDNPA as a financial contribution in line with the existing legal agreement or with this SPD, to be used for affordable housing elsewhere in the local area.

Late stage review

- 2.59** As a guideline, in addition to any early stage review, a late stage review on sites of 25 or more homes will be required where a policy-compliant level of affordable housing required was not achieved at planning permission stage as a result of viability evidence. This higher threshold allows for the practicality of undertaking the review, and the costs and time involved. The late stage review will generally take place at the point when 75% of the permitted dwellings have been sold (or if not being sold, when 75% are occupied), but before the completion and sale of the whole development to ensure that any additional requirements are enforceable.
- 2.60** The need or otherwise, and scope of a review should be agreed with the SDNPA before commencing the review. It will be undertaken and funded by the applicant who must also cover the full costs to the SDNPA of negotiating and assessing the review.
- 2.61** The level of information required and detail to be agreed with the SDNPA will be proportionate to the size and complexity of the scheme.
- 2.62** The review will be expected to compare:
- a) the GDV achieved on the 75% of units sold / let plus the estimated GDV for those yet to be sold / let with the predicted GDV at the time of the permission; and,
 - b) the build costs and other relevant costs for those completed, and the estimate for those yet to be built, with the estimates made at the time of the permission.
- 2.63** The assumed percentage of developer profit and professional fees as agreed at the time of the permission will generally not have changed and should be factored into the assessment.
- 2.64** Any resulting surplus above the established minimum profit will be split between the applicant and the SDNPA in such a way as to ensure that the level of affordable housing as required in Policy SD28 is met, with a maximum of 50% of the surplus funding additional affordable housing. The SDNPA will seek the surplus to be provided as on-site affordable housing. If financial contributions are nevertheless agreed as appropriate, **Figure 5** of this SPD will be used to help

establish the cap on the further financial contribution expected. The applicant can retain any further surplus above the cap.

3. USING POLICY SD29: RURAL EXCEPTION SITES

What is a Rural Exception Site?

3.1 A Rural Exception Site (RES) provides 100% affordable housing in perpetuity to meet local needs, on land outside of any settlement boundary that would not normally be used for housing. SDLP Policy SD29 sets out criteria to be considered when assessing proposals for RESs:

- a) Affordable housing is provided in perpetuity;
- b) The site selection process has considered all reasonable options, and the most suitable available site in terms of landscape, ecosystem services and overall sustainability has been chosen;
- c) The scale and location relates well to the existing settlement and landscape character;
- d) It is shown that effective community engagement has fed into the design, layout and types of dwellings proposed.

3.2 An RES must provide affordable housing in perpetuity. Consequently, the homes must be secured through a Section 106 legal agreement with a clause to enable affordable homes to remain affordable indefinitely. This also relates to any intermediate housing, including shared ownership and discounted market sales housing. The Section 106 agreement will also ensure the homes will be for people in housing need and with a local connection to the community.

Evidencing local need

3.3 RESs must address the needs of the local community. The type and tenure of homes should be informed by the latest evidence of strategic and local needs, including the currently published Housing and Economic Development Needs Assessment (HEDNA) or future reviews as relevant. In addition, the RES should take into account the needs of the local community as expressed in the relevant Neighbourhood Development Plan or Parish Plan where these are supported by appropriate up-to-date evidence including local housing needs assessment and housing registers. Proposals for RES will be expected to provide an up-to-date local housing needs assessment as part of the evidence in support of the application. This should have been prepared or updated no more than 2 years before the planning application (or a fully worked-up pre-application scheme) is submitted.

Site selection process

3.4 The selection of a site for an RES must be through a clear and evidenced selection process. This needs to have considered all reasonable available options. RES by their nature are an exception to Policy SD25 (which directs development to within existing settlement boundaries). Where there are no available sites within a settlement boundary which are capable of delivering 100%

affordable housing, a RES outside the settlement boundary will be considered. The selection of the most suitable site needs to have taken into account which site is best related to the existing settlement, including providing best access to local services, which site fits best within the landscape, and which site offers the best opportunities to contribute to ecosystem services.

3.5 Some key considerations in assessing RES are, in brief:

- Relationship between the site and the existing settlement;
- Contribution to ecosystem services, including in respect to the further points below;
- Understanding the landscape character and its capacity to accommodate change;
- Contribution to the natural environment and green infrastructure;
- Impact on the historic environment, and
- Physical access to local amenities, especially for pedestrians and cycles.

3.6 The relationship between a site and the existing settlement is the first consideration for the site selection process. The preferred site should fit well with the existing settlement pattern both in terms of location and by respecting the settlement character in terms of form and scale, whilst having regard to access and employment. In addition, all reasonably available sites should be evaluated in relation to their access to local amenities (in particular for pedestrians and cycles, but also for vehicles). Consideration should also be given to impact upon the historic environment, including conservation areas, individual buildings and archaeology.

3.7 In line with SDLP Policy SD4 all development proposals should conserve and enhance landscape character. A meaningful understanding of the landscape context and character should therefore inform the site selection process. The South Downs Integrated Landscape Character Assessment, relevant community-led / local landscape character assessments and any bespoke assessment should be used to establish an understanding of the landscape context and character of the area and those positive characteristics which define local distinctiveness. The assessment should evaluate the capacity of each reasonably available site to accommodate change, and to conserve and enhance overall landscape character and settlement pattern. Landscape capacity will reflect the inherent sensitivity of the landscape and the value attached to the landscape, or to specific elements within it.

3.8 The site selection assessment should also consider the ability of each reasonably available site to have an overall positive impact on the natural environment, and to contribute to ecosystem services in accordance with SDLP Policy SD2: Ecosystem Services.¹⁶ To establish the baseline conditions of sites, a range of evidence base should be used including the Ecoserve GIS mapping (available on the South Downs Local Plan Policies Map webpage¹⁷). For each site, a baseline assessment should establish what characteristic assets exist such as trees, hedgerows and woodland, wildlife habitats, water or soils which are valuable for providing ecosystem service benefits. Once the assets present on each site have been established, these should be analysed to determine what opportunities exist to positively enhance the ability of the natural environment to contribute goods and services in line with the examples provided in SDLP Policy SD2.

3.9 The site selection process should demonstrate that the site offering greatest opportunity to enhance ecosystem services has been given preference.

¹⁶ Policy SD2: Ecosystem Services – see South Downs Local Plan page 38

¹⁷ The interactive Policies Map is available at <http://www.southdowns.gov.uk/localplan>

Delivering rural exception sites

- 3.10** Due to their nature, RESs should be owned and managed by a Registered Provider (RP) or a constituted community led housing provider such as a Community Land Trust (CLT)¹⁸. Paragraph 7.82 of the SDLP explains that local partnership arrangements potentially involving an RP are an appropriate way to deliver a RES. Where an endorsed Whole Estate Plan (WEP) is in place, alternative options such as direct provision by the landowner may be appropriate, with the tenure mix being considered on a case-by-case basis.

4. LEGAL AGREEMENT FOR AFFORDABLE HOUSING

Affordable housing requirements will be secured by Section 106 legal agreement. An example S106 Agreement is provided at **Appendix 3**, and this template will be updated periodically as required.

All S106 Agreements related to affordable housing will:

- Detail the number and tenure of affordable housing to be provided on site (social rented, affordable rented, shared ownership etc.);
- Detail the locations, number of bedrooms, and gross internal floor areas of the specific units;
- Formulas for calculating rent and service charge and/or sale value of units as relevant, and the initial equity for sale of shared ownership units to future occupiers;
- In the case of on-site affordable housing provision on a commercially-led scheme, state when the affordable housing will be provided (usually prior to occupation of a proportion of the open market units);
- Where relevant, specify the means by which the affordable units will remain as affordable for future occupiers in need of affordable housing;
- Include a requirement to notify the SDNPA of the development commencement and completion dates and the name, where applicable, of the Registered Provider for the Affordable Homes;
- In the case of financial contributions in lieu of on-site affordable housing, the legal agreement will include the amount payable to the SDNPA, the timing of that payment, and indexation and the interest chargeable in the case of late payment of the financial obligations;
- In circumstances where the full level of affordable housing has not been achieved as set out in Policy SD28, state whether there is to be an early review / late stage review or

¹⁸ Further information and advice is available on the National Community Land Trust Network – www.communitylandtrusts.org.uk

both, what the triggers will be, arrangements for covering the costs of the review, the detail of timings for the review, and how any surplus above target profit will be apportioned (including stipulating whether additional affordable homes will be provided on-site or as a contribution in lieu of off-site affordable housing). It will also include a requirement to notify the SDNPA of when triggers are reached;

- The means of delivering the affordable units, i.e. whether through partnership with a Registered Provider or other specialist housing provider; through direct provision, and process of nominating occupiers of the affordable units

Where reference is made to a specific Housing Authority, it should be acknowledged within the S106 Agreement that housing allocations will be, where necessary extended across the whole of the administrative area of the National Park in line with the cascade set out in paragraph 2.20 of this SPD.

Where the designated housing authority fails to nominate a person within 21 days of being notified of the availability of the affordable unit, or where a nominee fails to take up tenancy, the affordable housing provider shall be entitled to allocate such units to any person who is in need of an affordable home within the SDNP.

Housing Authority Nomination Agreements are to use the criteria and mechanisms for Affordable Housing detailed in the S106 Agreement.