



Harlow District Council

Affordable Housing Supplementary Planning Document

Adopted
March 2007

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Affordable Housing

Supplementary Planning Document

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Affordable Housing SPD

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Foreword

Affordable housing in Harlow is a key issue. Indeed the provision of “Decent Affordable Homes” is one of the Council’s high priorities.

Property prices have risen dramatically in recent years, and it is evident that this has prevented many local people from buying their own home, consequently increasing the demand for affordable housing within the town.

The Affordable Housing Supplementary Planning Document (SPD) will clarify the Council’s policies on affordable housing for the benefit of informing negotiations between the Council, developers and Registered Social Landlords (RSLs). It sets the proportion of affordable homes the Council will seek on new housing scheme. This will relate to the minimum set by the latest “Housing Requirements Survey”. The SPD sets clear guidelines about how the Council will determine the type and tenure of dwellings, as well as their design and layout.

1 Introduction

1.1 The Adopted Replacement Harlow Local Plan defines affordable housing as:

“Housing which is accessible to people whose income does not enable them to afford to buy or rent for their needs on the free housing market. The monthly cost of housing should not exceed thirty percent of the household’s net monthly income.”

1.2 The purpose of this Supplementary Planning Document (SPD) is to clarify the Council’s policies – Policy H/5, Policy H/6 and associated Table 1 of the adopted Replacement Harlow Local Plan and in addition to set out the Council’s requirements for the following:

- Provision;
- Design;
- Management;
- Developer contributions;
- Key workers;
- Resolution of issues.

1.3 This SPD is designed to highlight, at the earliest opportunity, where planning obligations will be sought for affordable housing and to encourage negotiations to be started as early as possible to make sure that developments are not delayed.

1.4 A number of key Council services are involved in the process and will work closely to ensure minimum delay. Development Control negotiates the Section 106 Agreements that include affordable housing provision, in conjunction with the Strategic Housing Service. Legal Services drafts the legal agreements.

1.5 The SPD is a material consideration in determination of planning applications.

1.6 In line with Government guidance, the SPD will be monitored and reviewed on a regular basis to make sure that it continues to meet the identified housing needs in Harlow.

1.7 The SPD takes account of consultation undertaken through Harlow’s Social Housing Partnership Agreement with partner RSLs, and is reviewed each year. Each of the partner RSLs have been involved in discussions in developing the policy (carried out as part of the review of the partnership agreement at the beginning of summer 2006) and also through the Homes & Neighbourhoods 2020 group, a sub-group of the Local Strategic Partnership. It will be amended to take into account future consultation in accordance with Local Development Framework guidance.

1.8 In order to avoid confusion and make best use of resources to respond to local housing requirements effectively, the Council strongly encourages dialogue between developers, RSL’s and the Council’s Planning and Strategic

Housing Service's at the earliest possible stage. This will be without prejudice to subsequent applications but will help to reduce the possibility of unsuccessful applications and appeals.

Objectives

The Council's overarching Corporate Objective is:

- Decent Affordable Homes

In addition

- To ensure that on allocated residential sites provision is made for a range and mix of dwelling types and sizes to meet the needs of all sectors of the Harlow community, including affordable housing, and special needs housing to create a mixed community.
- To maximise opportunities for the provision of affordable new homes in accordance with the Local Plan.

2 Policy Context

National

Section 38 (6) Planning and Compulsory Purchase Act 2004

2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides the legislative background for the Council's policies on Affordable Housing. It means that affordable housing policies contained within the Adopted Replacement Harlow Local Plan are a material consideration in all planning applications. The Act states that: "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise." Planning Policy Statement 1 (PPS1) 'Delivering Sustainable Development' (2005).

2.2 Planning Policy Statement 1 indicates that development plans should ensure that sustainable development is pursued in an integrated manner. The Government is committed to developing strong, vibrant and sustainable communities and to promoting community cohesion in both urban and rural areas. Development plans should promote development that creates socially inclusive communities, including suitable mixes of housing.

Planning Policy Statement 3 (PPS3): Housing (2006)

2.3 Adopted national policy guidance for the provision of affordable housing is contained within PPS3: Housing (2006) together with the

Government's Affordable Housing Policy. The purpose of PPS3 is to provide a national policy framework for planning for housing. It sets out what is required at regional and local level to deliver housing within sustainable communities. Advice on the policy approach and practical implementation is included in the supporting practice guidance and companion guide. The Government's key objective for planning for housing is to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live.

PPS3 requires Local Authorities to:

- 2.4 Set an overall target for the amount of affordable housing to be provided. It should reflect an assessment of the likely economic viability of land for housing within the area, taking account of risks to delivery and drawing on informed assessments of the likely levels of finance available for affordable housing. This can include public subsidy and the level of developer contribution that can reasonably be secured.
- 2.5 Set separate targets for social-rented and intermediate affordable housing where appropriate.
- 2.6 Specify the size and type of affordable housing that, in their judgement, is likely to be needed in particular locations and, where appropriate, on specific sites. This will include considering the findings of the Strategic Housing Market Assessment.
- 2.7 Set out the range of circumstances in which affordable housing will be required. The national indicative minimum site size threshold is 15 dwellings. However, Local Planning Authorities can set lower minimum thresholds, where viable and practicable, including in rural areas.
- 2.8 Set out the approach to seeking developer contributions to facilitate the provision of affordable housing. In seeking developer contributions, the presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing.
- 2.9 Where viable and practical, Local Planning Authorities should consider allocating and releasing sites solely for affordable housing.
- 2.10 The Affordable Housing SPD will wherever possible follow the guidance set out within PPS3: Housing. This SPD supports the Affordable Housing policies within the Adopted Replacement Harlow Local Plan and must therefore hold this in consideration.

Planning Policy Statement 12 (PPS12): Local Development Frameworks (2004)

- PPS12 states that Supplementary Planning Documents must be consistent with national and regional planning guidance, as well as the policies set out in the Local Development Framework. They must

be clearly referenced to the relevant development plan document policy or 'saved policy' and reviewed regularly. The process by which they are prepared and how the community were consulted must be made clear.

Circular 05/2005

- 2.11 Circular 05/2005 gives revised guidance on the use of planning obligations under Section 106 of the Town and Country Planning Act 1990 as substituted by the Planning and Compensation Act 1991. The Circular clarifies the basis on which planning obligations should be assessed for their acceptability in policy terms and gives further guidance on the process of securing obligations.

Sustainable Communities: Building for the Future (2003)

- 2.12 The Sustainable Communities Plan sets out the Government's agenda for providing sustainable communities, including increasing housing supply and tackling decent homes standards.

Sustainable Communities: Homes for All (2005)

- 2.13 This is the Government's five year plan for housing, showing how it will offer greater choice and opportunity in housing across England. It builds on the Sustainable Communities Plan and sets out the Government's vision for the future: "A flourishing, fair society, based on opportunity and choice for everyone depends upon creating sustainable communities – places that offer everyone a decent home that they can afford in a community in which they want to live and work, now and in the future".

Region

Draft East of England Regional Spatial Strategy (RSS14) (2005)

- 2.14 The Secretary of State has published proposed changes to the Draft East of England Regional Spatial Strategy. The outcome of the DCLG consultation will not be known until after the adoption of this SPD. One of the Draft RSS's objectives is "giving priority to the provision of affordable housing to meet identified needs".
- 2.15 Proposed policy H3 of the Draft Plan refers to affordable housing and is as follows:-

Within the overall housing requirement in Policy H1, LDDs should set appropriate targets for affordable housing taking into account:

- the objectives of the RSS;

local assessments of affordable housing need prepared in accordance with Government guidance,

- the need where appropriate to set specific, separate targets for social rented and intermediate housing;
- housing market considerations; and
- the Regional Housing Strategy.

At the regional level, delivery should be monitored against the expectation that some 35% of housing coming forward as a result of planning permissions granted after the adoption of the RSS are affordable.

- 2.16 The Draft East of England Regional Spatial Strategy when adopted will inform the Local Development Documents. When these new policies are adopted this SPD will be revised and updated accordingly.

East of England Regional Housing Strategy

- 2.17 Is 'To ensure everyone can live in a decent home which meets their needs, at a price they can afford and in locations that are sustainable'.

County

Adopted Essex Structure Plan 1996-2011

- 2.18 The objective of the Essex Structure Plan is “to provide for the housing needs of all the local community, including those in need of affordable or special housing”.
- 2.19 The provision of affordable housing at the detailed local level is fundamental to the achievement of strategic objectives for meeting the area’s own locally generated requirements. Districts and all other providers of housing should develop sufficiently flexible and robust policies to address the specific affordable housing needs which emerge through local housing needs surveys. Given the range of circumstances across the plan area, this plan does not set a notional target for provision of affordable housing. Nevertheless, the targets set in local plans for provision of affordable housing will be used as a monitoring indicator to assist implementation, management and review of this plan and to inform the regional planning process.
- 2.20 This SPD should directly relate to policy in the Adopted Replacement Harlow Plan which conforms to the Adopted Essex and Southend-on-Sea Structure Plan.

District

Adopted Replacement Harlow Local Plan 2001-2011

- 2.21 The SPD sets out specifically to expand upon Section 6.8 of the Adopted Plan.

2.22 Policy H/5, Policy H/6 and Table 1 of the Adopted Local Plan set out the requirement, provision and management basis for this SPD.

2.23 Appendix 1 sets out Policy H/5 and Policy H/6 in full.

The Housing Strategy – Homes for Harlow 2004 -2007

- The objectives of this Strategy are as follows: To ensure a growing supply of decent, affordable homes within the town that match emerging demands - To ensure that at least 30% of all new homes built on developments of 15 or more dwellings (or half a hectare) are affordable.
(Note: this percentage has now been superseded by latest Housing Requirements Survey and is 33%)
- To ensure that 50% of all affordable new housing is one bed roomed.
- To promote the availability of starter homes and key worker housing in the town.
- To develop and implement a strategy for key worker housing.
- Making best use of existing social housing.
- Promoting low cost home ownership.
- To develop new homes within the regeneration of the town centre north, of which 30% would be affordable housing.
- To ensure that new developments follow the policies in the Local Plan with regards the protection and preservation of Wildlife Sites, SSSI's, Local Nature Reserves and verges.

Affordable Housing Policy 2006 - Harlow Strategic Housing Service

2.24 This document presents an updated version of Strategic Housing Service's Affordable Housing Policy. It will be used to inform future negotiations between Strategic Housing Services and developers concerning the development of affordable housing in the Town. This document has been fundamental in informing this SPD, and consequently appropriate sections have been incorporated. This gives developers a one stop resource in a single document.

Other Policy Documents Referenced

*Harlow Council's Corporate Plan
Sustainable Communities: Building for the Future
East Of England Regional Housing Strategy
London Commuter Belt Sub Regional Housing Strategy
Harlow 2020 – Local Strategic Partnership*

3 Definition of Affordable Housing

- 3.1 As noted earlier, the Adopted Replacement Harlow Local Plan defines affordable housing as:

"Housing which is accessible to people whose income does not enable them to afford to buy or rent for their needs on the free housing market. The monthly cost of housing should not exceed thirty percent of the household's net monthly income."

- 3.2 The Government has published the Planning Policy Statement 3 housing (PPS3) published December 2005 which defines affordable housing as:

"Non-market housing provided to those whose needs are not met by the market .. Affordable housing should meet the needs of eligible households, including availability at low enough cost for them to afford, determined with regard to local incomes and local house prices; and include provision for the home to remain at an affordable price for future eligible households, or if a home ceases to be affordable, any subsidy should generally be recycled for additional affordable housing provision."

- 3.3 This is a definition that the Council supports as being clear, certain and appropriate to meeting Harlow's housing needs.

- 3.4 The Council will, in accordance with the guidance provided by PPS3 Housing, recognise only the following as acceptable forms of tenure for affordable housing:

- Social rented housing – owned by either the Council or a Registered Social Landlord (RSL) for which guideline target rents are determined through the national rent regime, set out in the 'Guide to Social Rent Reforms' March 2001
- Intermediate / Low Cost Home Ownership(Including Homebuy) – where the weekly or monthly cost or rent may exceed the cost of social rented housing but is below market prices. This category does not include low cost market housing which neither the Government nor the Council consider to be an acceptable form of affordable housing for responding to those identified locally as being in housing need.

- 3.5 In cases where the provision of affordable housing is not social rented and therefore outside of the protection of affordability provided by the national rent regime, the Council shall require that the weekly cost of

affordable housing does not exceed 30% of the target person's or families' net weekly income. Whilst it is recognised that those on higher incomes may be able to afford a higher proportion of their income on housing costs, the Council is satisfied that 30% is a reasonable level bearing in mind that those on higher wages are better able to access housing other than that which is classified as affordable and the figure of 30% has been consistently endorsed by others including the National Housing Federation, ORS and previous Council policy. This is supported by Adopted Replacement Harlow Local Plan.

- 3.6 The most recent and lowest quartile of local income as provided by Hometrack at the time of calculation shall be used as the benchmark figure in calculating the affordability.
- 3.7 Service charges and other payments that are regularly required from the resident of affordable housing will be included with the cost of rent, mortgage repayments and / or leasehold fees in assessing whether the affordability is within the test described above. It shall be at the Council's discretion acting reasonably to determine which costs are relevant to this calculation.
- 3.8 The same requirements in the above paragraphs will be applied to the cost of Supported Housing when provided as affordable housing and the support charge will only be included where it would not be met through Supporting People for those on low income / Housing Benefit.

4 Affordable Housing Requirement

- 4.1 In a note to Policy H5 of the ARHLP (appendix 1) a negotiation baseline of 30% affordable dwellings was set and it is a requirement that this SPD is linked to Adopted Local Plan Policy. This figure pre-dates the latest Study, and was based on a Housing needs survey dated to February 2000 and does not therefore represent the latest survey as required by Policy H5.
- 4.2 In the recent Study (Housing Requirements Study by Opinion Research Services April 2005) for the purposes of ARHLP policy H5 and this SPD the percentage of affordable units was identified and presented as a target for either a 5 or 10-year period. This varies between 42% for five years or 28% over ten years (and also dependent on the extent of housing development during these periods). It is therefore not unreasonable to set the starting point for negotiation at **33%**, 3% above the baseline, on eligible sites.

Threshold

- 4.3 Developers be expected to negotiate an element of affordable units in the district in accordance with Adopted Replacement Harlow Local Plan Policy H5 on residential development sites of **15 or more dwellings or 0.5 of a hectare or more** irrespective of the number of dwellings. PPS3

has made it clear that 15 dwellings is now a minimum national threshold and can be lower if based on informed assessments of their economic viability.

- 4.4 Policy H5 of the ARHLP clearly states that threshold relates to the site, and should not be interpreted as referring to parts of the site, such as different phases.

Local Plan Allocated Sites

- 4.5 The following table has been extracted from the ARHLP. It shows an indicative number of affordable dwellings on allocated sites based on the 30% baseline. Policy H5 as modified requires that an up to date Housing Requirement Study should guide the percentage of dwellings. As set out above this percentage should be around **33%**.

Table 1

The following allocated sites will provide affordable housing in accordance with Policies H5 and H6:

Ref. No.	SITE	AREA	INDICATIVE NUMBER OF AFFORDABLE HOUSES
H2/1	Harlow Sport Centre	11.4	159
H2/2	Harlow Swimming Pool	1.3	18
H2/3	Old Harlow Areas of Opportunity	1.0	8
H2/4	Faircroft Little Bays Northbrooks	0.6 10.5	6 16
H2/5	Regeneration Area		
H2/8	Marshgate Farm Depot	0.5	3
H2/9	New Hall	18.0	225
H2/10	Wych Elm	0.99	33
H2/11	Ram Gorse Playing Field	3.7	33
		TOTAL	501

Section 106 Agreements

- 4.6 Standardised heads of terms to be applied to section 106 agreements where threshold in paragraph 4.3 is exceeded are set out in Appendix 3.

Other Requirements

- 4.7 Requirements for affordable housing will reflect the findings of the ORS survey (see Appendix 4) but Harlow District Council will reserve the right

to depart from these, reflecting the fact that the net requirements are linked to the optimum use and movement within the existing housing stock. The demand for affordable housing is regularly monitored and consequently the Council may at times have requirements that vary from the findings.

- 4.8 In cases where a site is developed in phases, each phase that exceeds the threshold in paragraph 4.3 will be required to provide the relevant quota of affordable units before further phases can be commenced.
- 4.9 This policy does not preclude developers providing affordable housing on sites that are below the threshold referred to in paragraph 4.3 and the Council will encourage the provision of affordable housing as defined within this policy on all sites through negotiation where reasonable to do so.
- 4.10 All affordable dwellings will be required to conform with the general standards of development set out in the Local Plan, these include biodiversity, open space, energy efficiency, etc.

5 Design

- 5.1 Affordable housing should not be different in external appearance to open market housing on the same site.
- 5.2 The affordable dwellings must be pepper-potted and not concentrated wherever the requirement for any phase is for nine or more units of affordable.
- 5.3 The provision of affordable housing must reflect proportionately the overall type of dwelling (for example house or flat), design and density of all dwellings that are built across the whole of the site.
- 5.4 Plans must make clear the pepper-potting of affordable housing for both forms of affordable tenure, to the satisfaction of the Council's Planning and Strategic Housing Service's.
- 5.5 The density of all residential development in Harlow is set by Adopted Replacement Harlow Local Plan Policy H1 and shall be taken to apply to affordable homes.
- 5.6 Affordable housing should ideally be located close to local facilities and public transport. Sites that are close to town or local centres and have good access to public transport are well suited to certain types of affordable housing, particularly where the provision is for the elderly. The proximity to services, facilities and access to public transport will be taken into account in deciding upon the level and type of affordable housing.
- 5.7 The provision of spaces for car parking for affordable housing shall in accordance with the Adopted Essex Car Parking Standards, be the same

proportionately as for similar open-market units across the same scheme. All affordable units that are designed to Lifetime Homes Standard (see below) must have designated parking that is accepted by the Council as being suitable in terms of size and location to the dwelling.

- 5.8 Irrespective of whether funding is provided by the Housing Corporation in seeking consistency in the quality of affordable housing in Harlow, the Council will require all affordable housing to meet the Scheme Design Standards set by the Housing Corporation.
- 5.9 This policy supports both national and local aims of improving more efficient use of resources (Planning Policy Statement 22 – ODPM 2004 & HDC Energy Strategy 2006) and requires as a minimum 50% of affordable homes for each scheme to achieve an eco-rating of 'excellent' and 'very good' as the lowest acceptable level.
- 5.10 Adopted Replacement Harlow Local Plan requires all new housing developments to take account of the needs of those with disabilities and seeks to meet these requirements and create sustainable and inclusive communities. Based upon the findings of the most recent Housing Requirements Survey and ongoing levels of supply and demand, the Council will require a minimum of 5 units or 25% of all new affordable units built to comply with full Lifetime Homes Standard. In recognition of the variations in definition of the design that constitutes Lifetime Homes and the individual aspects of each scheme and site, the requirements for this proportion of affordable housing shall be negotiated in each case. This is in addition to the requirement of the Adopted Replacement Harlow Local Plan that all homes should meet Part M of the Building Regulations.
- 5.11 Where Lifetime Homes are provided as a requirement of this policy, they must proportionally reflect the type, design, tenure and size of all other units as much as practicable.
- 5.12 Where sites are subject to local master plans, design coding or similar design requirements these requirements will be applied equally and consistently across all affordable units on that site.
- 5.13 All newly built affordable homes will be subject to satisfaction surveys conducted by the managing agent or RSL no sooner than 6 months and no later than 12 months after the date of first occupation. These will be made available to the Council's Strategic Housing Service no later than two months after completion and used to monitor and inform subsequent reviews of this policy and the design requirements of affordable homes in Harlow.
- 5.14 Where the design of units on a site (either open market or affordable) has been found to be a factor in frustrating the development of affordable units and savings can be made through variation to design, such variations should where possible be applied consistently across all units

on the site and not restricted to just compromising the design quality of the affordable units.

6 Management of Affordable Housing

- 6.1 In order to achieve the highest standards of management for residents of affordable housing in Harlow the Council promotes Harlow's Social Housing Partnership as a framework for delivering high standards in the development and management of affordable housing and contributing towards the aim of Sustainable Communities. The Council will therefore encourage developers to work in collaboration with one or more of the RSL's who are partners to Harlow's Social Housing Partnership.
- 6.2 The Council cannot give any assurance that it will support applications for grant funding from the Housing Corporation for RSL's who are not partners to Harlow's Social Housing Partnership (HSHP) on the grounds that there is no formal framework to monitor and encourage good standards of housing development and management.
- 6.3 Where it is either not reasonable or not possible to provide affordable housing that will be managed by RSL's who are partners to HSHP, the Council shall seek to incorporate within the terms of a Section.106 Agreement, conditions relating to the development, allocation, management and monitoring of the affordable housing that are consistent with the aims and requirements of the HSHP including regular monitoring of their compliance with the Commission for Racial Equality's Code of Practice. This may include appropriate sanctions that are reasonably required in order to ensure compliance with these requirements.
- 6.4 The Council is aware of the potential uncertainty that may arise for those lenders who provide financial assistance to developers and RSL's to fund the development of affordable housing. A balance is needed between security to lenders verses local housing authorities anxiety about any possible loss of existing affordable housing stock. A standard provision for mortgagee in possession to be included in all relevant Section 106 Agreements where requested to give a reasonable level of assurance to lenders and protection of local housing stock.

7 Low Cost Home Ownership / Intermediate Affordable Housing

- 7.1 This policy will only accept New Build Homebuy as low-cost home ownership provided through Section 106 Agreement's unless otherwise negotiated and agreed jointly by the Council's Planning and Strategic Housing Service's.
- 7.2 Homebuy will only be acceptable as affordable housing where the minimum required equity purchase is no greater than 50% and it can be

shown to be affordable in accordance with para 3.3 above inclusive of rents and service charges.

- 7.3 Receipts from stair-casing must be accounted for to the Council's Strategic Housing Service and ring-fenced for re-investment into additional affordable housing in the Harlow district through mutual agreement with the Council and such agreement including the proposals for reporting and future re-investment to be in place before the relevant Section 106 agreement can be completed.
- 7.4 Any other form of Homebuy such as Open Market Homebuy will not be counted as contributions to affordable housing but will be monitored by the Council's Strategic Housing Service to ensure a balance between the demand and supply of affordable housing in Harlow.

8 Contributions

- 8.1 Developers should expect to provide as a minimum requirement of a Section 106 Agreement free serviced land that will adequately accommodate the required number of affordable units.
- 8.2 It should be assumed that no grant will be available to subsidise either the cost of the land or the building of the affordable units.
- 8.3 The Council will only support applications for grant from the Housing Corporation or other similar bodies where the developer and RSL's can provide a satisfactory level of financial information that justifies the need for subsidy. This financial information must include information for all units on the site, not just those that are affordable, and in the first instance savings should be sought from the open market units if there is insufficient funding to provide the required affordable units.
- 8.4 It is a presumption of Adopted Replacement Harlow Local Plan Policy H5 that the provision of affordable housing will be made on site. Only in exceptional circumstances and by mutual agreement between the developer and the Council will a financial or other contribution for affordable housing on another identified site be acceptable.
- 8.5 Where a commuted sum or similar contribution is sought as an alternative to on site provision of affordable housing, the Council may require this contribution to be greater than the cost of providing affordable on site to reflect the additional costs incurred in providing affordable housing elsewhere. The calculation of any commuted sums will be based upon 75% of the current local market costs of acquiring properties of the required size and type, reflecting the broad findings of the current housing requirements survey of a 50/50 mix between social rent and Homebuy.
- 8.6 Where the Council has identified a shortfall in the delivery of particular types of affordable housing, for example larger social rented houses, these may become a priority to be realised through planning gain and

where reasonable, these priorities will be reflected in negotiations with developers and RSL's.

- 8.7 Even though the Council has sought to reduce the threshold for the requirement of affordable housing in the past in recognition of the high demand for affordable housing, there will continue to be developments in the district below these levels that will therefore counter the proportionate growth in the number of affordable homes. To help address this and in accordance with good practice, the Council will make best use of its own resources including Council owned land.
- 8.8 Where land owned by the Council is to be sold or transferred solely or partly for the development of dwellings the following matters shall be considered:
- a) Ownership and appropriate powers of disposal – i.e. whether the land is held under the Council's General Fund or Housing Revenue Account and therefore whether any disposal shall be in accordance with Local Government Act (LGA) 1972 or Housing Act 1985 respectively;
 - b) If the site is likely to provide 15 or more dwellings – if the requirement for affordable housing could be adequately met through the planning requirements of a section 106 agreement, the land could (subject to the terms approved by the appropriate committee in the event that it approves a disposal) be valued and sold for full open market value.
 - c) If the site is either too small to exceed the threshold in 8.8(b) (above) or there is a strategic reason why the provision of affordable units through a section 106 agreement would be inadequate then a decision shall be made with regard to the purpose of the disposal and the intended outcomes so as to identify the most appropriate terms of the disposal under either the LGA 1972 or Housing Act 1985.
- 8.9 In cases where the situation is as described in 8.8(c) above the Council may request the land valuation to be in accordance with the intended use, for example solely for the development of affordable housing, and this valuation shall (subject to statutory requirements) form the basis of negotiating the sale price with the prospective purchaser and the appropriate authority of either LGA 1972 or Housing Act 1985 so as not to frustrate the economic viability of the intended outcome to provide affordable housing.
- 8.10 Where paragraph 8.9 (above) is applied the valuation shall be undertaken independently of the Council and if valued at a reduced level because of the intention for the land to be used for the development of affordable housing this shall (subject to statutory requirements) not be counted as a financial contribution or subsidy by the Council.
- 8.11 The Council may wish to further reduce the sale price of land for example in lieu of grant payment to meet the cost of providing affordable

housing and where the price is significantly lower than the independent valuation based upon the development of affordable housing on the site the difference between the sale price and the valuation may be considered as subsidy and this information shall be made available upon request to other grant making organisations such as the Housing Corporation who may have to determine further levels of financial subsidy.

9 Supported Housing

- 9.1 The Council will include each unit of self-contained supported accommodation as one unit of affordable housing where the Council has rights of nomination and the cost of rent and support is met by Housing Benefit and Supporting People Grant respectively if entitled.
- 9.2 This policy endorses existing and future planning aims to secure the provision of supported on designated sites in Harlow as stated in the Adopted Replacement Harlow Local Plan Policies H8/1, H8/2 and H8/3. This is not an exclusive designation of sites that may be required to provide supported housing and the Council may request the development or contributions towards the development of supported on other sites in order to meet identified requirements.
- 9.3 Supported housing will only be acceptable where the client group has been agreed by the Council's Strategic Housing Service in consultation with other relevant bodies that may include Essex County Council, local health authorities and PCTs, the National Offender Management Service and Supporting People. In determining which client groups are acceptable, reference shall be made to the current strategic requirements of the local Supporting People programme and the Council's own housing strategies.
- 9.4 All supported housing should wherever practicable meet the design requirements for affordable housing set by this policy and the design should also ensure that the properties are 'future proofed' i.e. can be readily converted to use for general needs housing should future circumstances lead to a reduction in demand that would make the scheme otherwise economically no longer viable.
- 9.5 The Council is aware that the most recent Housing Requirements Survey was commissioned prior to the guidance that the needs of travellers and gypsies should also be included. Notwithstanding this, attention will be given to requirements identified at a local, county and sub-regional level. This policy supports the principle that contributions made towards the provision of affordable housing may with the agreement of the Council's Planning and Strategic Housing Service's include funding to meet the identified needs of these groups. This may include funding through the payment of a commuted sum in which each unit of affordable will be taken to relate to either one dwelling or one site, which ever is the most appropriate. The provision of sites is subject to Adopted Replacement Harlow Local Plan Policy H9.

10 Key workers

- 10.1 Whilst supportive of the need to ensure certain identified services are maintained by key workers, this need should not take priority over the identified need for affordable housing, unless that need can be proven. Affordable housing is still likely to make the most significant contribution to the needs of key workers and others in need of affordable housing in Harlow.
- 10.2 In cases where provision for Key Workers is required through Section 106 Agreement's this shall be defined within the terms identified locally that may be wider than those definitions set by the Government and / or Regional Bodies.
- 10.3 The cost of marketing and allocating key worker housing shall be met by the developer and the managing agent. A programme for this including options for making the properties available for general needs within a time-limit agreed with the Council and partner RSL's should be included.
- 10.4 Should it not be possible to attract the intended occupants to key worker units delivered through this policy, then the units must within a time-limit agreed in advance with the appropriate RSL's and the Council be made available for general needs affordable housing to be allocated within the terms of Harlow's Social Housing Partnership Agreement.

11 Monitoring

- 11.1 The Council's Planning Service has a Service Level Agreement with Essex County Council to monitor housing completions in the District. Part of this agreement is to identify affordable housing completions. This gives a comprehensive picture of the outcome of planning decisions and progress on development sites.
- 11.2 In addition the Council's Strategic Housing Service shall monitor the development of affordable housing throughout the district and compare this to the requirements identified in the most recent Housing Requirements Survey. This shall form the basis of informing Planning Services of the requirements for future developments to be realised through Section 106 Agreements.
- 11.3 The monitoring of the supply and demand of affordable housing shall also include regular analysis of the local housing market to ensure that intermediate housing remains a viable form of affordable tenure, i.e. can be reasonably afforded by some of those people in housing need.
- 11.4 Where information acquired through the monitoring of developments and the demand and supply of affordable housing in Harlow and the surrounding Housing Market Area, supports variations to existing

requirements the Council shall increase or decrease the proportion of affordable housing required within the range supported by the most recent housing requirements survey. At present this may vary between 28% to 39% although as required by the ARHLP the baseline for negotiation is 30%.

- 11.5 The Council shall also accordingly make adjustment for similar reasons to the type and proportion of tenure and size of properties that are required to meet local needs for affordable housing.

Appendix 1 - Local Plan Policies on Affordable Housing

Extract from Adopted Replacement Harlow Local Plan July 2006

6.8 Affordable Housing

- 6.8.1 A Housing Needs Survey has been undertaken by consultants to identify the type of housing required in the town. The 1999 Housing Needs Survey undertaken by Fordham Research Limited is a supporting document to the Local Plan.
- 6.8.2 Fordham concluded that for the five year period 1999 to 2004 around 825 additional affordable dwellings would be required to meet Harlow's needs. This equates to 165 dwellings per annum. Over the remainder of the Local Plan period 1320 affordable homes would be required to meet the need in full. This comprises some 63% of the total 2,041 allocation. The Council therefore needs to maximise the number of affordable dwellings, within the guidelines set out by government in PPG3 and Circular 06/98 "Planning and Affordable Housing"
- 6.8.3 Councils are encouraged by government advice to set targets for the proportion of affordable housing which they will seek from house builders and landowners on qualifying sites. Up to date housing need assessments will indicate the proportion of low cost market housing and subsidised housing, which can have a role to play in meeting housing need in Harlow.
- 6.8.4 Circular 06/98 "Planning and Affordable Housing" sets site thresholds below which a developer does not have to provide affordable housing. In doing this, the Circular does allow Local Authorities to adopt a lower threshold should there be exceptional local constraints. Harlow is an exceptional case as the allocation of housing need of 1320 comprises only 63% of the total allocation of 2092. Applying the 30% requirement there would be a shortfall of around 692 affordable dwellings.
- 6.8.5 However, only seven allocated sites in Policy H2 are 25 dwellings or above, this would provide around 491 affordable dwellings, a shortfall of nearly 829 affordable dwellings. To maximise the number of affordable dwellings in a District, where the opportunities are limited, the threshold to which the 30% applies has been reduced to 15 dwellings. This may also increase the affordable housing provision from windfall sites. This requirement increases the number of sites eligible for affordable housing to 9 and the number of affordable houses to 501.
- 6.8.6 This approach is supported by the Council's Housing Strategy 2002 to 2006, which has the following Strategic Aims:

To ensure a growing supply of decent affordable homes within the town that match emerging demands by:

Maximising new social housing development;
Making best use of existing social housing;
Promoting low cost home ownership schemes.

- 6.8.7 The Council considers that Harlow is an exception and therefore requires affordable houses to be provided on sites of 15 dwellings or 0.5 hectares or more.

H5 To meet the affordable housing requirement, on residential development sites of 15 or more dwellings or 0.5 of a hectare or more irrespective of the number of dwellings, the Council will negotiate the provision of intermediate housing and/or social rented housing, based on the prevailing housing needs assessment. Negotiations will take into account the economics of provision and site suitability.

There is a presumption that provision will be made on site. However, in exceptional circumstances and by mutual agreement between the developer and Council, a financial or other contribution may be agreed for provision to be made on another site within the district.

Note: 1) 30% is a base line for negotiation by the Council.

2) This policy does not preclude developers providing affordable housing on sites that do not meet this policy's criterion. The Local Planning Authority will therefore endeavour to achieve affordable dwellings on all sites through negotiation.

- 6.8.8 Affordable housing is defined, as "Housing which is accessible to people whose income does not enable them to afford to buy or rent for their needs on the free housing market The monthly cost of housing should not exceed thirty percent of the household's net monthly income."
- 6.8.9 Intermediate housing is defined, as "Any form of housing that is more expensive than social rented housing but is still cheaper and more affordable than a property of a similar kind on the open market. This may be because either the rent and/or mortgage is set at below market levels." Social rented housing is defined, as "housing where rents are set and regulated by either the Housing Corporation for registered social landlord stock, or the Local Authority for Local Authority Stock."
- 6.8.10 The table below shows the allocated sites which will provide affordable housing in accordance with policies H5 and H6.

Table 1

The following allocated sites will provide affordable housing in accordance with Policy H8:

Ref. No.	SITE	AREA	INDICATIVE NUMBER OF AFFORDABLE HOUSES
H2/1	Harlow Sport Centre	11.4	159
H2/2	Harlow Swimming Pool	1.3	18
H2/3	Old Harlow Areas of Opportunity	1.0	8
H2/4	Faircroft Little Bays Northbrooks	0.6 10.5	6 16
H2/5	Regeneration Area		
H2/8	Marshgate Farm Depot	0.5	3
H2/9	New Hall	18.0	225
H2/10	Wych Elm	0.99	33
H2/11	Ram Gorse Playing Field	3.7	33
		TOTAL	501

Note: 1) The figures in the table are an indicative level of provision.

2) The total number of affordable houses provided may change following monitoring of housing land and negotiation with developers.

6.8.11 Where a Registered Social Landlord will not be managing affordable housing, Policy H6 applies to ensure housing remains affordable in perpetuity.

H6

On housing sites where a Registered Social Landlord will not be involved in the management of affordable housing, housing for successive occupants will be secured by the use of planning obligations. The legal agreement will restrict the occupancy to those who cannot compete in the housing market.

Appendix 2 - Harlow Housing Requirements Survey 2005

Extract From Executive Summary

Summary of Findings

33. In summary, the ORS housing market model identifies an overall 5-year net requirement for 2,121 additional dwellings, which is attributable to an indigenous growth of almost 1,300 households (as more households form than dissolve) coupled with a net gain of just over 800 households through migration.

34. The balance of housing requirements once the raw information is interpreted is for 16% social housing, 20% intermediate housing and 64% market housing. This balance is determined on the basis of affordability given the current relationship between house prices and incomes, and the appropriate future balance will inevitably depend on changes in this relationship.

35. Whilst there are considerable gross requirements for 1-, 2- and 3-bedroom homes across all housing sectors, the net requirement is predominantly for 1- and 2- bedroom properties. Despite the gross requirement for larger homes (4-bedrooms or more) being relatively small, they account for a significant need in terms of additional affordable housing. Many of these larger dwellings are required to enable overcrowded households to transfer within the social sector – and if these larger units are not provided, the anticipated supply of smaller stock (released following transfers) will not be forthcoming and there will be continued pressure on existing 3-bed properties.

36. Factors which will influence the overall housing requirements include the level of migration to and from the district. Whilst the baseline outputs (based on recent trends) should be considered the most likely scenario, it is important to understand the differential elements of the model and their relative sensitivity. A 10% fluctuation in inward migration could reduce the overall requirement for additional housing to 1,590 dwellings, or conversely it could increase the requirement to 2,652 units. Similarly, a 10% fluctuation in outward migration from Harlow could yield a range of 1,664 to 2,578 additional homes over the 5-year period.

Appendix 3 - Developers Guide to Affordable Housing/Section 106 Heads of Terms Requirements in Harlow

Affordable Housing	<ul style="list-style-type: none"> • As defined in Council's Affordable Housing Policy and supported by the most recent housing needs requirement with regard to the proportion, size and tenure of units and levels of affordability. • Whilst consistently applying the percentage of affordable units required, the Council may vary from one scheme to another the type of units required in order to achieve a balanced response to identified housing requirements. • Developers should not assume any grant will be available to contribute towards the cost of providing affordable housing. The Council will usually only approve grant where it can be shown that it will ensure additional provision to the requirements of the Section 106 Agreement.
Affordable Housing Units	<ul style="list-style-type: none"> • Specification for affordable dwellings to include number, size by bedroom, house or flat and will have to conform to Local Authorities requirements and be agreed with them. • Tenure to be identified as either social rent or Homebuy. Low cost open market and sub-market rental or lease will not be accepted as affordable tenure. • All units to meet the Housing Corporations Housing Quality standards and "very good" eco rating as a minimum requirement. • All units to be provided to meet general needs housing requirements unless subject to specific prior agreement with Harlow Council's Strategic Housing Service. • Affordable Housing may also include provision for Key Workers, Supported Housing, Lifetime Homes and other types of units but only with prior agreement with Harlow Council's Strategic Housing Service. • All units to be retained and used as affordable housing within the terms accepted by Harlow Council in perpetuity.
Affordable Housing Scheme	<ul style="list-style-type: none"> • Details of the location, size, number and tenure of the affordable units on each phase of a development including the timetable for their construction. • The Council will require a cap to be placed on the maximum number of open-market units that can be built prior to the commencement of the affordable housing scheme. This will usually be no more than 50% of any scheme or proportion of a scheme. • To specify the contribution to be made by the developer and any other parties to the agreement, e.g. RSL's, Housing Corporation, etc. and the phasing and milestones for payments from each party.

Registered Social Landlord (RSL)	<ul style="list-style-type: none"> • Must be registered under Housing Act 1996 s.1 • RSL's must be nominated and / or approved by Harlow Council's Strategic Housing Service. In most cases the RSL will be one of those who is party to Harlow's Social Housing Partnership Agreement and the Council will usually only support applications for grant from members of this Partnership. • RSL's who are not party to the Social Housing Partnership Agreement will be required to satisfy the Council that they meet the same level of management and development standards, governance and commitment to working in Harlow before the Council will be satisfied to approve them and the terms of the Section 106 Agreement.
Key Worker Housing	<ul style="list-style-type: none"> • Provision specifically for key workers should only be included at the request of the Council. • Affordable housing within the definitions of the Council's Affordable Housing Policy that will be provided exclusively or give preference to those employed in sectors recognised as Key Workers by the Key Worker Zone Agent. • Harlow Council has absolute discretion in agreeing to the provision of Key Worker housing through Section 106 Agreement's and may stipulate whether some or all of the Zone Agents definitions are relevant to such a scheme. • The Council may also require the term Key Worker to be applied to other groups of employees in order to meet local identified housing requirements. • Agreement required between the developer and the Council as to how the units will be allocated and targeted. • Key worker schemes to include a clause that where it is not possible to allocate completed units to the intended Key Worker groups the units shall be made available for the Council to nominate to for general needs.
Supported Housing	<ul style="list-style-type: none"> • The Council may require supported housing to be provided wherever it believes it to be appropriate due to the location of the scheme, the size of the scheme or due to continued unmet and identified need. • The Council's agreement will be required for but not necessarily limited to the following criteria: <ol style="list-style-type: none"> 1. The number of units including whether shared or self-contained, 2. The primary and where relevant secondary client group, 3. The process for referral including named agencies and where relevant financial contribution made by these other agencies for revenue and capital funding, 4. Details of who will be providing the support and the proposed level of support in terms of hours per day/week per client. 5. Proposals for future-proofing the scheme, e.g. where revenue funding no longer available, decline in demand from client group, etc.

Nominations	<ul style="list-style-type: none"> • In cases where the RSL is party to the Council's Social Housing Partnership, the nominations of this Agreement will form the basis for the allocation of the affordable units. • In cases where the Social Housing Partnership Agreement does not apply the Council will require a detailed nominations agreement to be constructed and agreed by the Council prior to the commencement of any development on a scheme or part of a scheme.
Homebuy (shared ownership)	<ul style="list-style-type: none"> • In cases where Homebuy New Build (shared ownership) units are provided the Council requires details of the stair-casing options and confirmation that additional payments received as a result will be ring-fenced and accounted for with a requirement that they will be re-invested in subsequent provision of affordable housing in Harlow wherever possible on the same scheme. • All RSL's will be required to co-operate with the Council and the Homebuy Zone Agent in the allocation and marketing of Homebuy units.
Commuted Sum	<ul style="list-style-type: none"> • The Council does not see this as an effective means of meeting local housing need so there is a general presumption against accepting this under the terms of a Section106 Agreement. • In exceptional cases the Council may consider payment of a commuted sum as part or total requirement to meet affordable housing but in such cases may require an amount that ensures a greater proportion of affordable than would have been provided on site.
Stansted Area Housing Partnership (SAHP)	<ul style="list-style-type: none"> • The Council may request a developer to work in partnership with the SAHP programme in which case the selection of RSL and nominations will be covered by the relevant policy. • Involvement with the SAHP programme should not be taken to infer that there is additional funding to contribute towards the requirements of any Section106 agreement for affordable housing. • In the case of schemes developed under the SAHP programme in Harlow, the identified housing requirements for Harlow shall still apply in determining housing need and requirements of Section106 Agreement.
Contributions from the Council and other parties	<ul style="list-style-type: none"> • The Council or its partners may make additional resources available that contribute towards the development of affordable housing on a scheme. This should only be taken to apply to the affordable units being delivered through Section106 Agreement where there is prior agreement expressed between the developer, the Council, the RSL and other parties that these resources will be made available as a supplement to the Section 106 contribution. • The Council shall have the right through the use of additional resources, such as financial grant, reduced land values, etc. to increase the proportion of affordable housing on a scheme above the level detailed in a Section106 Agreement.

Appendix 4 - Annual Housing Requirement for Harlow

Annual Housing Requirement for Harlow – As reported in ORS Final Survey
(taken from 5 year requirement /5)

Property Type	Shared Ownership / Homebuy	Social Rent	Total Affordable
Gross Requirements			
1 bedroom	84	236	320
2 bedrooms	116	240	356
3 bedrooms	69	74	143
4+ bedrooms	6	62	68
Total	275	612	887
Net Requirements			
1 bedroom	53	Nil	53
2 bedrooms	16	43	59
3 bedrooms	10	Nil	10
4 bedrooms	6	24	30
Total	85	67	152

Market = 64% LCHO = 20% Social Rent = 16%

