Local Plan Partial Review – Submission
Policy Formulation Report – May 2017
Diversity of Housing
Policy CH2: Affordable Housing
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1. INTRODUCTION

1.1 LOCAL PLAN PARTIAL REVIEW

1.1.1 The Council is undertaking a Partial Review of its existing Local Plan to ensure it is up-to-date and fit-for-purpose.

1.1.2 The Local Plan Partial Review covers the topics which have not already been subject to recent reviews since the existing Local Plan was adopted by the Council in 2010 (then known as the Core Strategy). As part of this, the topic of housing needs reviewing.

1.1.3 This Policy Formulation Report has been written to explain the reasoning behind Policy CH2: Affordable Housing of the Publication Policies with Proposed Modifications.

1.2 POLICY CH2: AFFORDABLE HOUSING

1.2.1 This topic of the Local Plan Partial Review relates primarily to the following chapters and policies of the existing Local Plan:

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1.2.2 The issues which the Council considers the Local Plan Partial Review needs to address relating to affordable housing are:

- Affordable Housing Target
- Affordable Housing Threshold
- Affordable Housing Tenure Split
- Off-site provision of Affordable Housing and Payments in Lieu
- Viability Assessments
- Vacant Building Credit
2. ISSUE: AFFORDABLE HOUSING

2.1 INTRODUCTION

2.1.1 The existing Local Plan Policy CH2: Housing Diversity includes criteria on affordable housing. Given the changes at national and regional level on affordable housing since the policy was adopted in 2010, the Council needs to review its planning policies in relation to affordable housing and related issues.

2.2 LEGISLATION, POLICY AND GUIDANCE CONTEXT

NATIONAL

HOUSING AND PLANNING ACT 2016

2.2.1 The Housing and Planning Bill became an Act on 12 May 2016. The Housing and Planning Act 2016 is expected to have significant implications on the delivery of affordable housing. Amongst a range of significant changes affecting planning, the Act introduces a requirement for Starter Homes which will be a new type of affordable housing. The definition of affordable housing is anticipated to be changed to include Starter Homes following a Government consultation on proposed changes to national planning policy published in December 2015. The Act defines Starter Homes as a newly built property (includes conversions) that must be sold to someone who is a first-time buyer between the age of 23 to 40, with a discount of at least 20 per cent off the market value. The price of a Starter Home is capped at £450,000 within Greater London. Councils have a general duty under the Act to promote the supply of Starter Homes through their planning functions.

2.2.2 The Government undertook a technical consultation to formulate the Regulations for Starter Homes. This technical consultation provided further detail that Starter Homes should be required on sites which are either providing 10 units or more or are 0.5 hectares. On qualifying sites (based on the threshold above) the Government is proposing a requirement of 20% of all homes delivered to be Starter Homes. Given the high land values in the Borough and the price cap of £450,000 for Starter Homes, their delivery would require significantly higher discounts than 20% in most parts of the Borough. This is likely to have significant implications for other traditional forms of affordable housing – social/affordable rent and intermediate.

2.2.3 However, following the above consultation the Housing White Paper (see below) published in February 2017 has confirmed that the Government will not introduce a statutory requirement for starter homes at the present time.

HOUSING WHITE PAPER

2.2.4 On 7 February the Government released a Housing White Paper ‘Fixing our broken housing market’. The White Paper sets out the government’s plans to:

\[www.gov.uk/government/consultations/national-planning-policy-consultation-on-proposed-changes\]
- reform the housing market and boost the supply of new homes
- plan for the right homes in the right places
- build homes faster
- diversify the housing market
- help more people access housing

2.2.5 The Department for Communities and Local Government is consulting on new planning proposals set out in the White Paper, which will involve amendments to the National Planning Policy Framework and regulations. The consultation began on 7 February 2017 for 12 weeks and will close on 2 May 2017. A separate consultation on Planning and affordable housing for Build to Rent is also running concurrently.

2.2.6 The Housing White Paper consultation proposes four key changes to the delivery of affordable housing as set out below.

**Changing the definition of affordable housing**

2.2.7 The first three issues relate to proposed changes to the definition of affordable housing. The government is proposing to take forward proposals to expand the definition of affordable housing in planning policy to include a greater range of low cost housing opportunities for those aspiring to own a home including Starter Homes. These are set out below and the full definition as proposed in the Housing White Paper is set out in Appendix A.

a. Starter Homes – The proposed changes to the definition refer to starter homes as “housing as defined in Sections 2 and 3 of the Housing and Planning Act 2016 and any subsequent secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute at the time of plan-preparation or decision-taking. Local planning authorities should also include income restrictions which limit a person’s eligibility to purchase a starter home to those who have maximum household incomes of £80,000 a year or less (or £90,000 a year or less in Greater London).”

b. Discounted Market Sales housing – defined as “housing that is sold at a discount of at least 20 per cent below local market value. Eligibility is determined with regard to local incomes and local house prices. It should include provisions to remain at a discount for future eligible households.”

c. Affordable private rent housing – defined as “housing that is made available for rent at a level which is at least 20 per cent below local market rent. Eligibility is determined with regard to local incomes and local house prices. Provision should be made to ensure that affordable private rent housing remains available for rent at a discount for future eligible households or for alternative affordable housing provision to be made if the discount is withdrawn. Affordable private rented housing is particularly suited to the provision of affordable housing as part of Build to Rent Schemes.”
Increasing delivery of Affordable Home ownership products

2.2.8 The fourth relevant change relates to changing the NPPF to make it clear that “local authorities should seek to ensure that a minimum of 10% of all homes on individual sites are affordable home ownership products.”

2.2.9 The Council has updated its evidence on Affordable Housing Target Viability Study, June 2015 and its update in July 2016 to take assess the impact of these proposed changes.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

2.2.10 Paragraph 50 of the NPPF requires Councils to plan for a mix of housing based on current and future demographic and market trends, as well as the needs of specific groups within the community. The size, type, tenure and range of housing required should also be identified. Where a need for affordable housing has been identified, policies should be set for meeting this need.

2.2.11 In order to have a clear understanding of the housing needs in their area, paragraph 159 states that Councils should prepare a Strategic Housing Market Assessment (SHMA) to identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period.

2.2.12 The NPPF includes a section titled Ensuring viability and deliverability (paragraphs 173 to 177). These paragraphs stress the importance of plans being deliverable. In particular paragraph 173 states “To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.” (emphasis added)

2.2.13 Paragraph 174 of the NPPF specifies that the Local Plan should include requirements for affordable housing. It further asks local authorities to take into account the cumulative impacts on development of all types of local policies and standards in addition to nationally required standards. It further states that “In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Evidence supporting the assessment should be proportionate, using only appropriate available evidence.”

DEFINITION OF AFFORDABLE HOUSING

2.2.14 Annex 2: Glossary of the NPPF sets out the definition of affordable housing. Any planning policy relating to affordable housing can only ever require the type/tenures set out in national policy. This definition is presented below for ease of reference but the Housing White Paper proposes to update the definition and this is set out above in paragraph 2.2.6. The full definition as proposed in the Housing White Paper is set out in Appendix A.
Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

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

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

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

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

**NATIONAL PLANNING PRACTICE GUIDANCE (NPPG)**

2.2.15 The National Planning Practice Guidance (NPPG) provides further guidance on national policy.

*Planning Obligations*

2.2.16 Paragraph 3 of the NPPG on Planning Obligations states that “Policies for seeking planning obligations should be set out in a Local Plan; neighbourhood plan and where applicable in the London Plan to enable fair and open testing of the policy at examination. Supplementary planning documents should not be used to add unnecessarily to the financial burdens on development and should not be used to set rates or charges which have not been established through development plan policy.” Paragraph 4 further adds that “Planning obligations must be fully justified and evidenced. Where affordable housing contributions are being sought, planning obligations should not prevent development from going forward.”

2.2.17 Paragraph 6 clarifies that “Where local planning authorities are requiring affordable housing obligations or tariff style contributions to infrastructure, they should be flexible in their requirements. Their policy should be clear that such planning obligations will take into account specific site circumstances.”

2.2.18 Paragraph 7 states that “Policy for seeking planning obligations should be
grounded in an understanding of development viability through the plan making process. On individual schemes, applicants should submit evidence on scheme viability where obligations are under consideration. Wherever possible, applicants should provide viability evidence through an open book approach to improve the review of evidence submitted and for transparency.”

Viability

2.2.19 The NPPG on Viability clarifies that there is no single approach for assessing viability and refers to sector led guidance on viability methodologies in plan making and decision taking (paragraph 2).

2.2.20 Paragraph 8 states that “Current costs and values should be considered when assessing the viability of plan policy. Policies should be deliverable and should not be based on an expectation of future rises in values at least for the first five years of the plan period.”

2.2.21 In terms of land values which are central in viability assessments the NPPG states in relation to plan making (paragraph 14) that “In all cases, estimated land or site value should:

- reflect emerging policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;
- provide a competitive return to willing developers and land owners (including equity resulting from those building their own homes); and
- be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.”

2.2.22 The NPPG (paragraph 15) provides further guidance on ‘Competitive return to developers and landowners’ as referred to in the NPPF (paragraph 173). It states that “A competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy.”

2.2.23 Paragraph 17 of the NPPG provides further guidance on costs and values. It states that “Viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today’s circumstances. However, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered. Forecasts, based on relevant market data, should be agreed between the applicant and local planning authority wherever possible.”

Payments in Lieu

2.2.24 Paragraph 14 of the NPPG on Planning Obligations clarifies that “Some authorities seek planning obligations contributions to pooled funding ‘pots’ intended to provide common types of infrastructure for the wider area.”
2.2.25 **Paragraph 10** of the NPPG states that “Local planning authorities are expected to use all of the funding received by way of planning obligations, as set out in individual agreements, in order to make development acceptable in planning terms. Agreements should normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not.”

**Small Sites Exception**

2.2.26 The Government has set a minimum threshold below which planning obligations including affordable housing should not be sought. **Paragraph 31** of the NPPG states that “There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the **Written Ministerial Statement of 28 November 2014** and should be taken into account.

These circumstances are that;

- contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm.....”

2.2.27 Paragraph 16 further states that “For the purposes of section 106 planning obligations only the definition of 10-units or less applies. This is distinct from the definition of major development...”

**Vacant Building Credit**

2.2.28 **Paragraph 21** of the NPPG states that “National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.”

2.2.29 **Paragraph 23** further states that “The vacant building credit applies where the building has not been abandoned.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of redevelopment.
- Whether the building is covered by an extant or recently expired planning
permission for the same or substantially the same development.”

Starter Homes

2.2.30 The NPPG on Starter Homes predates the definition of Starter Homes and other related provisions in the Housing and Planning Act 2016 and the Housing White Paper, February 2017. The key difference is that the NPPG restricts the provision of Starter Homes to exception sites. Paragraph 1 states that “The exception site policy enables applications for development for Starter Homes on under-used or unviable industrial and commercial land that has not been currently identified for housing.” Other characteristics such as a 20% discount below open market value and the discounted price to be no more than £250,000 outside London and £450,000 in London and an age restriction of below 40 are similar to the definition in the Housing and Planning Act 2016.

REGIONAL

THE LONDON PLAN

2.2.31 The Mayor gives particular priority to the provision of new affordable homes to meet London’s pressing needs. The London SHMA demonstrates that the high cost of market housing in London makes affordable housing particularly important in meeting housing needs. The London Plan does not set an affordable housing target for Boroughs and instead sets an absolute London-wide strategic affordable housing target of 17,000pa (Policy 3.11) which all Boroughs are expected to contribute towards – this equates to approximately 40% when compared to the total London Plan housing target of 42,389pa. It does however set out the percentage targets for the proportion of affordable provision that should be social/affordable rent (60%) and intermediate rent or sale (40%).

2.2.32 At the local level, the policy requires Boroughs to set an overall target in the Local Plans for the amount of affordable housing provision needed together with separate targets for the different types of affordable tenures. Such targets may be expressed in absolute or percentage terms. In terms of thresholds, Policy 3.13 states that Boroughs should normally require affordable housing provision on a site with capacity to provide 10 or more units, but to seek a lower threshold where this can be locally justified. In accordance with the NPPF, the assumption is that affordable housing provision should be made on-site with off-site provision or payments in lieu accepted only in exception circumstances. Policy 3.12 is also clear that when negotiating affordable housing on individual sites, the maximum reasonable amount should be sought having regard to local requirements, affordable housing targets, the need to promote mixed communities and development viability.

2.2.33 Policy 3.10 of the London Plan sets out its definition of affordable housing. The London Plan definition broadly reflects the definition in Annex 2 of the NPPF set out above. It is however noteworthy that the supporting text to Policy 3.10 provides further guidance on intermediate housing and related household income thresholds. It sets out that “Households whose annual income is in the range £18,100–£66,000 should be eligible for new intermediate homes. For homes with more than two bedrooms, which are particularly suitable for families, the upper end of this eligibility range will be extended to £80,000.” These figures are updated
annually in the London Plan Annual Monitoring Report. In the latest Annual Monitoring Report the top threshold has indeed been increased to £90,000. There is now also a single cap of £90,000 which is no longer linked to the size of homes as before. Paragraph 3.44 of the Annual Monitoring Report 12 explains that this has been done “in line with the Government’s approach to shared ownership, from April 2016 people wanting to access intermediate products will no longer be restricted in terms of the size of units they buy or rent.”

2.2.34 Policy 3.12: Negotiating Affordable Housing of the London Plan seeks to secure the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed use schemes. The supporting text to this policy in particular paragraphs provide some general guidance on viability assessments. Paragraph 3.71 states that “Developers should provide development appraisals to demonstrate that each scheme provides the maximum reasonable amount of affordable housing output. Boroughs should evaluate these appraisals rigorously, drawing on the GLA development control toolkit (Affordable Housing Development Control Toolkit. GLA) and other independent assessments which take account of the individual circumstances of a site, the availability of public subsidy and other scheme requirements.” Policy 3.12 also states “Negotiations on sites should take account of their individual circumstances, including development viability, the availability of public subsidy, the implications of phased development including provisions for re-appraising viability of schemes prior to implementation (‘contingent obligations’) and other scheme requirements”.

2.2.35 The supporting text (paragraph 3.74) emphasises the requirement to provide affordable housing on-site. It sets outs some exceptional circumstances where it may be appropriate to provide affordable housing off-site or accept cash in lieu. However, generally these exceptions are related to securing more and better affordable housing or balanced communities.

2.2.36 Paragraph 3.75 further refers to ‘contingent obligations’ or arrangements for re-appraising the viability of schemes prior to implementation. This is to take account of economic uncertainties and in respect of schemes presently anticipated to deliver low levels of affordable housing, these provisions may be used to ensure that maximum public benefit is secured over the period of the development.

HOUSING SUPPLEMENTARY PLANNING GUIDANCE (SPG)

2.2.37 The Housing SPG is capable of being a material consideration in planning decisions and provides additional advice on the implementation of the London Plan’s policies. The Housing SPG does not provide updated guidance on affordable housing. This is because of the forthcoming changes in the Housing and Planning Act 2016 which was going through Parliament at the time the Housing SPG was developed. The Housing and Planning Act is expected to have significant implications on how affordable housing is planned in London.

2.2.38 The Housing SPG includes a section on Viability Appraisals (paragraphs 4.1.1 to 4.1.10). The Mayor supports the use of GLA’s own Development Appraisal Toolkit. Boroughs are strongly advised to use more local information reflecting local circumstances rather than defaults in the toolkit. Importantly the Housing SPG supports the use of ‘Existing Use Value plus’ approach in viability appraisals.
Paragraph 4.1.4 states that “It should be noted that the NPPF’s benchmark for viability appraisal is that it should “take account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”. In light of inference to the contrary, either ‘Market Value’, ‘Alternative Use Value’, ‘Existing Use Value plus’ based approaches can address this requirement where correctly applied (see below); their appropriate application depends on specific circumstances. On balance, the Mayor has found that the ‘Existing Use Value plus’ approach is generally most appropriate for planning purposes, not least because of the way it can be used to address the need to ensure that development is sustainable in terms of the NPPF and Local Plan requirements, he therefore supports this approach. The ‘plus’ element will vary on a case by case basis based on the circumstances of the site and owner and policy requirements.”

2.2.39 The Housing SPG also promotes transparency of information. This is explicitly encouraged in paragraph 4.2.2 which refers to Environmental Information Regulations 2004 and the Greenwich decision. It refers to the fact that public interest will often outweigh commercial confidentiality arguments. It states “Therefore, the Mayor encourages the transparency of information to increase public trust in the planning process and asks developers to keep confidential information to a minimum.”

2.2.40 The Housing SPG encourages review mechanisms when a large scheme is built out in phases and/or is built over a long period of time (paragraph 4.3.3). Detailed guidance is provided on the issue of Contingent Obligations, Review Mechanisms and Cascades in paragraphs 4.3.1 to 4.3.10.

DRAFT AFFORDABLE HOUSING AND VIABILITY SPG, NOVEMBER 2016

2.2.41 The new Mayor of London has a strategic aim of half of all new homes in London being affordable. The London Plan seeks the ‘maximum reasonable amount of affordable housing’. The Draft Affordable Housing and Viability SPG published for consultation in November 2016 provides guidance to ensure that existing policy is as effective as possible. It is not (and is not capable of) introducing new policy. The Draft SPG focuses on affordable housing and viability and includes four distinct parts: background and approach; the threshold approach to viability appraisals; detailed guidance on viability assessments; and a specific approach to Build to Rent schemes. When adopted the SPG will replace section 3.3 (Build to Rent) and Part 5 (Viability) of the Mayor’s Housing SPG, March 2016 set out above.

2.2.42 The Draft SPG introduces the concept of the “threshold approach to viability: which is where the approach to viability information differs depending on the level of affordable housing being provided. The threshold proposed is 35% of a scheme as affordable housing based on habitable rooms. Schemes which do not meet the 35% threshold or require public subsidy to do so, will be required to submit detailed viability information (in the form set out in Part Three) which will be scrutinised by the Local Planning Authority (LPA) and where relevant the Mayor, and treated transparently. In addition, comprehensive review mechanisms will be applied to schemes that do not meet the threshold in order to ensure that affordable housing

2 RICS Financial Viability in Planning 2012 ibid
contributions are increased if viability improves over time." (paragraph 7).

2.2.43 Paragraph 8 of the Draft SPG explains that, “Applications that meet or exceed the 35% threshold without public subsidy, provide affordable housing on site, meet the specified tenure mix and all other requirements and obligations are not required to submit viability information. Such schemes will be subject to an early review mechanism, but this is only triggered if an agreed level of progress is not made within two years of permission being granted.” Such an approach is considered to provide greater certainty to applicants, reducing the need for protracted negotiation and providing an incentive to developers to deliver more affordable housing through the planning system. It is also seen as a step in ensuring planning permissions are implemented.

2.2.44 In addition to further the Mayor’s aim of 50% affordable housing “All applicants should explore the use of grant and other public subsidy to increase the level of affordable housing” (page 16) (details are provided in the grant section in paragraphs 2.20 - 2.23).

2.2.45 The SPG details two routes for planning applications – Route A (Applications that do not meet the 35% threshold) and Route B (Applications that meet or exceed the 35% threshold). The two routes are summarised in the diagram below (page 51 of the SPG).

2.2.46 In terms of the tenure mix for affordable housing, the Draft SPG clarifies that the Mayor is keen to maintain the flexibility in the London Plan to meet local needs but at the same time ensure the delivery of his preferred affordable products. The preferred tenure split is for schemes to deliver: at least 30% low cost rent (social rent or affordable rent) with rent set at levels that the LPA considers ‘genuinely affordable’ (this will generally be significantly less than 80% market rent). At least 30% as intermediate products, with London Living Rent (as defined in paragraphs 2.32 - 2.35) and/ or shared ownership being the default tenures assumed in this category. the remaining 40% to be determined by the relevant LPA.

2.2.47 The Draft SPG defines London Living Rent as a new type of intermediate affordable housing that will help, through low rents on time-limited tenancies, households with around average earnings save for a deposit to buy their own home. Eligibility for London Living Rent is restricted to existing tenants with a maximum household income of £60,000, without sufficient current savings to purchase a home in the local area. It is aimed at single people, couples and other households with more than one person, but is unlikely to be suitable for house shares of multiple adults due to the household income limit. Any update to this criterion will be provided through the GLA’s annual monitoring reports. The GLA has calculated ward-level caps for London Living Rent homes based on one-third of median gross household income for the local borough. The cap varies from the Borough median by up to 20 per cent in line with house prices within the ward. (paragraphs 2.32 to 2.35 of the Draft SPG).

2.2.48 The third part of the SPG provides detailed guidance on viability assessments, aiming to establish a standardised approach to viability. The SPG clearly sets out what information and assumptions should be included in a viability appraisal. It builds on the London Borough Development Viability Protocol and aims to provide
a clear approach that can be consistently applied across London. The Draft SPG support transparency in viability appraisals. It also explicitly states the Mayor’s preference for using Existing Use Value Plus as the comparable Benchmark Land Value when assessing the viability of a proposal. The premium above Existing Use Value will be based on site by site justification reflecting the circumstances of the site and landowner (paragraphs 14 to 16).

2.2.49 In relation to the Vacant Building Credit, the Draft SPG notes that (paragraph 2.58) “In London, VBC is unlikely to bring forward more development. Brownfield land already delivers the majority of London’s housing, and affordable housing
requirements are already subject to viability testing, so affordable housing requirements are not preventing sites from coming forward. The policy could undermine key existing polices in the London Plan and Local Plans, which have been tested through examination in public, are based on robust evidence, and take account of the pressing need for affordable housing across London”.

2.2.50 It further states that the Mayor’s view is that in most circumstances it will not be appropriate to apply the VBC in London. However, there may be some limited circumstances where the credit should be applied.

2.2.51 Paragraph 2.62 sets out that “In addition to the above, when assessing the applicability of the VBC, boroughs are advised to consider applying the credit only where all of the following criteria are met:

- the building is not in use at the time the application is submitted;
- the building is not covered by an extant or recently expired permission;
- the site is not protected for alternative land use; and
- the building has not been made vacant for the sole purpose of redevelopment.

2.2.52 It also makes it clear that if an applicant is claiming that the scheme qualifies for VBC, it cannot also claim CIL relief through the vacancy test (paragraph 2.64).

2.2.53 The SPG also provides specific guidance on Build to Rent developments, recognising that they differ to the traditional build for sale model.

HOMES FOR LONDONERS: AFFORDABLE HOMES PROGRAMME 2016-21

2.2.54 The Mayor has secured £3 bn government funds to help start building at least 90,000 affordable homes in London by 2021. The Mayor published a funding guidance - Homes for Londoners: Affordable Homes Programme 2016-2021 in November 2016. The purpose of the document is to help housing associations, community groups, London Boroughs and private developers to build new affordable homes in London. It explains how to get the funding from the Mayor and the rules that apply. Funding is available for the following tenures – London Affordable Rent, London Living Rent and London Shared Ownership. The document outlines eligible providers who can bid for funding. It specifies that only organisations who are intending, either independently or as part of a consortium, to own the completed affordable homes are eligible to bid for grant. The document encourages funding bids from London boroughs but highlights that properties delivered as London Affordable Rent and London Living Rent may be eligible for Right to Buy, where the local authority is the landlord.

HOMES FOR LONDON, THE LONDON HOUSING STRATEGY

2.2.55 The Mayor’s Housing Strategy emphasises the challenge in providing increasing number of homes to cater to the growing population of London. It notes that over the last ten years the overall level of new housing supply has averaged between 20,000 and 25,000 homes per annum. As mentioned above the target adopted
through the London Plan is to provide 42,000 homes per annum. It also notes that the London Plan SHMA 2013 identified a need for around 25,600 of new homes per annum to be affordable which equates to 52% of the 42,000 homes per annum target. However, the vast majority of new affordable homes in London are part funded by public subsidy and any affordable housing target must be deliverable in the light of plausible future subsidy levels. The London Plan therefore sets a target for an average of 17,000 new affordable homes a year over its plan period.

2.2.56 The overriding aims of the strategy are to increase the supply of housing of all tenures and to ensure that these homes better support London’s continued economic success. The strategy is not just about supply; policies range from improving the existing stock to tackling rough sleeping – but supply is at the heart of it, underpinning each of its five key priorities:

- increasing housing supply to levels not seen since the 1930s;
- better supporting working Londoners and helping more of them into home ownership;
- improving the private rented sector and promoting new purpose-built and well managed private rented housing;
- pushing for a new, long-term financial settlement for London Government to drive housing delivery; and
- bringing forward land for development and accelerating the pace of housing delivery through Housing Zones and the London Housing Bank.

MAYOR’S HOUSING COVENANT 2015-18 PROGRAMME

2.2.57 The Mayor has committed £1.25 billion through his Housing Covenant 2015-18 Programme, which will see at least 42,000 affordable homes built. Around 40 per cent of this funding will be for flexible home ownership and 60 per cent for affordable rent. The programme supports the aims of the Draft London Housing Strategy, building on the success of those earlier programmes associated with the document.

LOCAL

HOUSING STRATEGY 2013 – 17

2.2.58 The Council’s Housing Strategy sets out how we as a borough want to improve both the quality of accommodation and lives of people who live here by:

- Resources – Develop effective asset management and longer term business planning, taking advantage of the new regime for Council Housing finance.
- Development and regeneration – Regenerate, renew and develop new affordable housing where opportunities arise.
- Housing options – Provide a service that enables people to make informed

decisions about their housing options.

- Vulnerable residents – Support people who are vulnerable with appropriate accommodation and advice services.
- Employment and training – Enable people in social housing to access employment and training opportunities.

2.2.59 The Council will publish a new four year Housing Strategy in 2017.

2.2.60 Section 2: Development and regeneration of the Housing Strategy includes some details of sites which the Council was considering for estate renewal. The Silchester Garage site is already complete. The Housing Strategy acknowledges the issues of affordability in the borough given the highest property prices anywhere in the country. It states that “We want to continue to ensure access to homes on a social or target rent, to provide a springboard so that tenants have a realistic chance of making the transition from being reliant on benefits to being financially independent and in paid employment. We will continue to support the development of affordable ownership options, such as shared ownership housing. We also want to support low and middle income earners by exploring how affordable housing can be provided for this group through new housing developments.”

2.2.61 The Housing Strategy also comments that “We want to explore the opportunities that the new Affordable Rent tenure can bring to develop more intermediate housing options. We have developed a policy on Affordable Rent to inform planning and future housing development. The Royal Borough wants to develop new affordable housing and is committed to finding practical solutions through the new funding model to achieve this.”

EXISTING LOCAL PLAN POLICY

2.2.62 The Local Plan policies on securing affordable housing are set out in specific criteria of Policies CH1: Housing Targets and CH2: Housing Diversity. These are set out below:

**Policy CH1 Housing Targets**
The Council will ensure that sufficient housing sites are allocated in order to ensure the housing targets are met.

To deliver this the Council will:

b. make provision for the maximum amount of affordable housing with a target of a minimum of 200 units per annum from 2011-12 until 2027-28 from all sources, the exact target will be set through the London Plan process;

c. require affordable housing tenures to be provided such that they work towards a borough-wide target of 85 per cent social rented housing and 15 per cent Intermediate housing.
Policy CH2 Housing Diversity
The Council will ensure new housing development is provided so as to further refine the grain of the mix of housing across the borough.

To deliver this the Council will, in relation to:

Affordable Housing
a. require developments to provide affordable housing at 50 per cent by floor area on residential floorspace in excess of 800sq.m gross external area;
b. require provision to be in the form of a commuted sum in lieu of the equivalent amount of affordable housing floorspace where in excess of 800sq.m but less than 1,200sq.m of gross external residential floor space is proposed;
c. require affordable housing provision of affordable homes on site where more than 1,200sq.m of gross external residential floor space is proposed, unless exceptional circumstances exist;
d. require any off-site affordable housing to be provided in any wards except the following: Golborne, St Charles, Notting Barns, Colville, Norland, Earl’s Court and Cremorne;
e. require an application to be made for any ‘off-site’ affordable housing concurrently with the main planning application and that the two applications are linked through a s106 agreement or unilateral undertaking;
f. require that affordable housing and market housing are integrated in any development and have the same external appearance;
g. require the affordable and market housing to have equivalent amenity in relation to factors including views, daylight, noise and proximity to open space, playspace, community facilities, and shops;
h. where a scheme over 800sq.m does not provide 50 per cent of gross external residential floorspace for affordable housing, the applicant must demonstrate:
i. the maximum reasonable amount of affordable housing is provided through the provision of a viability assessment, using the GLA toolkit or an agreed alternative
ii. the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision;
i. require that affordable housing includes a minimum of 15 per cent intermediate housing in Golborne, St.Charles, Notting Barns, Norland, Colville, Earl’s Court and Cremorne wards. In all other wards a minimum of 85 per cent social rented housing should be provided;
j. require that the provision of intermediate housing is provided at the ‘usefully affordable’ point.

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)

2.2.63 Section 23: Negotiating the Maximum Reasonable Proportion of Affordable Housing of the Planning Obligations SPD provides guidance on securing the maximum reasonable affordable housing on qualifying sites. The key paragraphs are reproduced below for ease of reference -

23.1 The Royal Borough will seek the maximum reasonable proportion of affordable housing on qualifying sites. In accordance with the Core Strategy the initial basis for negotiations is that 50% of all housing should be provided as affordable housing. Should an applicant propose a lower proportion of affordable housing a financial
appraisal will be required in order to demonstrate the maximum reasonable proportion for the specific site. Where this is provided, the applicant will be expected to bear the Council’s costs in assessing the financial appraisal (see Part 1 of the SPD).

23.2 One method for which proposed developments may be assessed in Royal Borough of Kensington and Chelsea is through the use of the Development Control Toolkit developed for the Greater London Authority (GLA) by Three Dragon’s Consultants and Nottingham Trent University. Although it is recognised that a methodical approach to projecting costs and profits will never be perfectly accurate, in the interests of objectivity and consistency of analyses, the Development Control Toolkit is publicly available and therefore is recommended as a tool to inform the negotiation process.

23.3 The Toolkit requires a number of inputs of information regarding incurred and projected costs. A reasonable profit for the developer is projected for, as is the amount of Social Housing Grant (if any) that may be available. An outcome projecting what would be a reasonable proportion of affordable housing contribution is provided, which will be used as one basis for negotiating the proportion of affordable housing.

23.4 It is important that the information provided for use in the Development Control Toolkit is accurate. The Royal Borough may seek detailed evidence of costs incurred, the assumptions made for those costs and sale prices that are projected. Pre-application research should be sufficient to consider all likely costs to be incurred in the development.

23.5 Applicants should not automatically assume that Social Housing Grant will be made available for private sector developments. The applicant should consult with the Royal Borough’s Housing Initiatives Team at an early stage, preferably in cooperation with an RSL partner, to establish whether Social Housing Grant or an alternative source of funding is likely to be secured.

23.6 Although the Development Control Toolkit is recommended as a financial appraisal method, the Royal Borough will not preclude information being presented through other appraisal methods. However, all figures and assumptions will need to be clearly shown in any model used, so the Royal Borough can understand how the assumptions are made.

23.7 Early engagement with the Royal Borough is critical to ensure the processes of negotiation and securing affordable housing set out above are undertaken efficiently.

**SUMMARY**

<table>
<thead>
<tr>
<th>Date</th>
<th>Document</th>
<th>Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 2016</td>
<td><strong>Housing and Planning Act 2016</strong></td>
<td>HM Government</td>
</tr>
<tr>
<td>Feb 2017</td>
<td><strong>Housing White Paper ‘Fixing our broken housing market’</strong></td>
<td>DCLG</td>
</tr>
<tr>
<td>Mar 2012</td>
<td><strong>National Planning Policy Framework (NPPF)</strong></td>
<td>DCLG</td>
</tr>
</tbody>
</table>
### 2.3 EVIDENCE BASE

#### MONITORING REPORT 2016

2.3.1 The total net number of affordable housing completions in the financial year (2015/16) was 67 dwellings. The affordable units were provided as part of the development at the Grand Union Centre (49 affordable units – 27 social rented and 22 intermediate), 205 Holland Park Avenue (9 affordable units – 7 social rented and 2 intermediate) and Council’s own developments at 42 Edith Grove and Whistler Walk Children’s Home which provided 9 social rented units. This add to 43 social rented units and 24 intermediate units.

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Net Residential Approvals</td>
<td>783</td>
<td>860</td>
<td>244</td>
<td>1292</td>
<td>1303</td>
<td>252</td>
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<tr>
<td>Net affordable approvals</td>
<td>63</td>
<td>244</td>
<td>99</td>
<td>169</td>
<td>286</td>
<td>25</td>
</tr>
<tr>
<td>% of affordable approvals of all residential approvals</td>
<td>8%</td>
<td>28%</td>
<td>41%</td>
<td>13%</td>
<td>22%</td>
<td>10%</td>
</tr>
<tr>
<td>Net Residential Completions</td>
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<td>102</td>
<td>65</td>
<td>264</td>
<td>982</td>
<td>341</td>
</tr>
<tr>
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<td>2012/13</td>
<td>2013/14</td>
<td>2014/15</td>
<td>2015/16</td>
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<td>---------</td>
<td>---------</td>
<td>---------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>Net affordable completions</td>
<td>61</td>
<td>23</td>
<td>4</td>
<td>46</td>
<td>196</td>
<td>67</td>
</tr>
<tr>
<td>% of affordable completions of all residential completions</td>
<td>35%</td>
<td>23%</td>
<td>6%</td>
<td>17%</td>
<td>20%</td>
<td>20%</td>
</tr>
</tbody>
</table>

Table 3: Affordable housing approvals and completions 2010/11 to 2015/16

PAYMENTS IN LIEU

2.3.2 In addition to the on-site delivery of affordable housing, the Council also seeks affordable housing contributions from sites which are between the 800 sq m to 1,200 sq m threshold in accordance with Policy CH2. Affordable housing contributions are also sought from large sites where on-site delivery is not possible.

2.3.3 Table 4 presents a more comprehensive picture of payments in lieu secured for the provision of affordable housing over the years.

<table>
<thead>
<tr>
<th>Category</th>
<th>Apr-Mar 09/10</th>
<th>Apr-Mar 10/11</th>
<th>Apr-Mar 11/12</th>
<th>Apr-Mar 12/13</th>
<th>Apr-Mar 13/14</th>
<th>Apr-Mar 14/15</th>
<th>Apr-Mar 15/16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affordable Housing</td>
<td>750k</td>
<td>1,455k</td>
<td>50k</td>
<td>1,048k</td>
<td>7,879k</td>
<td>10,941</td>
<td>15,420k</td>
</tr>
</tbody>
</table>

TABLE 4: SECTION 106 PAYMENTS FOR AFFORDABLE HOUSING SPENDING COMMUTED SUMS

2.3.4 The money received for affordable housing could be spent on the Council’s own developments. Land values in the Borough are too high for land purchases by the borough and the Council has in the past looked to build affordable housing on its own estates. The small proportion of S106 money that had been spent in the last five years had been invested in the hidden homes scheme within the Council’s existing housing estates. The Council intends to spend affordable housing payments in lieu on its estate regeneration programme, amongst other projects such as ‘Hidden Homes’, to deliver more affordable housing.

STRATEGIC HOUSING MARKET ASSESSMENT (SHMA)

2.3.5 The SHMA states at paragraph 4.11 that “There are no data sources providing an up-to-date breakdown of housing tenure since the 2011 census. According to the Census, in 2011 the private rented sector (PRS) had just overtaken owner-occupation as the largest single tenure in RBKC, with both housing 36% of households. The social rented sector tenure amounted to nearly 25%, with shared ownership only representing less than 1%. Within the owner-occupier sector, 23% of dwellings were owned outright, with 13% having a mortgage or loan. This proportion of outright ownership is higher than neighbouring authorities and the Inner London average.”
The SHMA assesses the need for affordable housing which differs from the overall objectively assessed need for housing (OAN). The OAN is the net addition to the housing stock of all tenures required to cater for future household growth. The affordable housing requirement estimates the total amount of affordable housing required to meet the need of households which cannot afford to access market housing. It assesses the ability to afford housing across newly forming households, not simply the net addition to household numbers, adds in any current backlog and offsets this against the supply of affordable housing likely to come available in the current stock to produce an estimate of how much additional affordable housing is required. To illustrate the difference further, it would theoretically be possible for affordable housing need to be met through a transfer of existing market housing to affordable housing without adding to the existing stock.

The process for calculating the Borough’s overall affordable housing need is set out in Figure 2 below. This shows an annual need figure of 1,171 affordable homes, which can be broken down by tenure as follows:

- Social rented sector: 209 (18%)
- Affordable rented sector: 523 (45%)
- Intermediate sector: 437 (37%)

The SHMA addresses the requirements of the NPPF to identify the full objectively assessed need for affordable housing, and to set policies for meeting that need. The Borough’s SHMA estimates that the overall net annual need for affordable housing is 1,171 units per annum. This requirement figure is around twice as large as the objectively assessed need (OAN) figure of 575 dwellings per annum. It
should be noted that there is little relationship between the two figures, with the OAN based on projected net growth in households and the affordable housing requirement based on working through the backlog of existing affordable housing need as explained above.

2.3.9 Despite the distinction in methodology, a comparison of the two figures makes it clear that the need for affordable housing is the overwhelming policy requirement. The primary objective of the revised affordable housing target therefore becomes ensuring that the Council achieves the maximum reasonable level of affordable housing in all instances.

2.3.10 It is important to note that paragraph 4.7 of the NPPF references meeting such need “as far as is consistent with the policies set out in” the NPPF.

2.3.11 The updated evidence on the need for each type of tenure is also set out in the borough’s SHMA. The level of need for each tenure is determined by the affordability threshold which is calculated as the entry level monthly cost. The lowest cost market tenures start at £1,712 for a one bed which is equivalent to a gross household income of £68,480 (assuming 30% of gross income is spent on housing costs) rising to £95,320 for a two bed unit. Given that the median average wage of a borough resident is just under £40,000 this indicates that market housing will be unaffordable to a significant proportion of borough residents.

<table>
<thead>
<tr>
<th>Dwelling size</th>
<th>Social/affordable</th>
<th>Intermediate sector</th>
<th>Open market</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 bed</td>
<td>£555</td>
<td>£555 - £1,712</td>
<td>&gt;£1,712</td>
</tr>
<tr>
<td>2 bed</td>
<td>£806</td>
<td>£806 - £2,383</td>
<td>&gt;£2,383</td>
</tr>
<tr>
<td>3 bed</td>
<td>£1,135</td>
<td>£1,135 - £3,250</td>
<td>&gt;£3,250</td>
</tr>
<tr>
<td>4 bed</td>
<td>£1,513</td>
<td>£1,513 - £4,333</td>
<td>&gt;£4,333</td>
</tr>
</tbody>
</table>

2.3.12 The following intermediate rent scenarios were set out as a proportion of market rent –

<table>
<thead>
<tr>
<th>Dwelling size</th>
<th>Scenario A: Intermediate threshold as % of market rent</th>
<th>Scenario B: RBKC Intermediate Policy</th>
<th>Scenario C: Midpoint Intermediate Rents</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 bed</td>
<td>80%</td>
<td>32%</td>
<td>67%</td>
</tr>
<tr>
<td>2 bed</td>
<td>74%</td>
<td>34%</td>
<td>54%</td>
</tr>
<tr>
<td>3 bed</td>
<td>65%</td>
<td>35%</td>
<td>50%</td>
</tr>
<tr>
<td>4+ bed</td>
<td>49%</td>
<td>35%</td>
<td>50%</td>
</tr>
</tbody>
</table>

2.3.13 Using the three scenarios set out above, the net annual need for affordable housing was estimated as follows:

*www.nomisweb.co.uk/reports/lmp/la/1946157252/report.aspx*
### Tenure Needs Comparison

<table>
<thead>
<tr>
<th>Tenure</th>
<th>Scenario A</th>
<th></th>
<th>Scenario B</th>
<th></th>
<th>Scenario C</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Absolute</td>
<td>%</td>
<td>Absolute</td>
<td>%</td>
<td>Absolute</td>
<td>%</td>
</tr>
<tr>
<td>Social and Affordable</td>
<td>838</td>
<td>72%</td>
<td>196</td>
<td>17%</td>
<td>652</td>
<td>56%</td>
</tr>
<tr>
<td>Rent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intermediate Sector</td>
<td>332</td>
<td>28%</td>
<td>966</td>
<td>83%</td>
<td>510</td>
<td>44%</td>
</tr>
</tbody>
</table>

**Social and Affordable Rent**

- **Scenario A**: 838 units, 72% of total
- **Scenario B**: 196 units, 17% of total
- **Scenario C**: 652 units, 56% of total

**Intermediate Sector**

- **Scenario A**: 332 units, 28% of total
- **Scenario B**: 966 units, 83% of total
- **Scenario C**: 510 units, 44% of total

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**Figure 2: Affordable Housing Need**

2.3.14 Annex 3 of the SHMA explores the options for intermediate housing market development. It comments that given the difference in incomes and house prices, there are only limited areas within the borough where shared ownership homes would be affordable to those within the GLA maximum household limits and these would be smaller homes i.e. one or two bed units. It explores some options for low

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**Note:** Some figures have been rounded up or down.
cost home ownership (LCHO). It is suggested that using RBKC regeneration schemes on its own estates continues to be considered (we are aware that this is already underway), including considering developing taller buildings.

**ESTABLISHING AN APPROACH TO AFFORDABLE HOUSING PAYMENTS IN LIEU**

2.3.15 Where it is not possible to provide affordable housing on-site or off-site the Council’s existing approach in the Local Plan and Planning Obligations SPD is to seek a Borough-wide payment in lieu which equates to £2,500 per square metre.

2.3.16 The Council commissioned BNP Paribas Real Estate to advise on various aspects of the Council’s payments in lieu approach for affordable housing as follows:

- Review the approaches to securing commuted sums from small residential sites in the Council’s emerging Policy CH2 and those adopted by other authorities (approaches adopted by Mole Valley, Elmbridge, Richmond and Wandsworth councils typify the various approaches);
- Explore the possibility of setting a payment in lieu per square metre and consider whether this should vary between different parts of the Borough;
- Consider the extent to which payments in lieu can reflect land costs;
- Develop an approach for RBKC that builds on the best aspects of the approach suggested in Policy CH2 and from other local authorities;
- Develop a simplified approach for developers and the Council to establish the viability of small sites and the ability of developers of such sites to meet the Council’s affordable housing requirements; and
- Consider how this simplified approach to testing viability might dovetail with a formula or mechanism for calculating commuted sums.

2.3.17 The study concluded that the Wandsworth and Richmond approaches (which are based on the same principle of calculating the ‘opportunity cost’ of delivering affordable housing on-site) are most suited to the Borough. Building upon the best aspects of these approaches, BNP Paribas created a ‘hybrid’ model that performs the dual functions of testing the viability of small schemes, as well as calculating their payment in lieu. It was concluded that a single charge based on a payment per square metre is unlikely to deliver the ‘optimum’ amount of funding to deliver affordable housing. The Council could adopt a set of variable rates which are linked to the six CIL zones in its approved CIL Charging Schedule. Alternatively, the Council could opt not to publish rates per square metre, but to test the total amount of payment in lieu for each specific scheme.

2.3.18 The study highlighted that the single most significant issue with a Borough-wide charge per square metre is the substantial differences in values between different parts of RBKC. Given that a single charge needs to be capable of operating in the least viable areas (with lowest values), this could mean that the Council may not be securing sufficient funds to deliver affordable housing from higher value areas. Therefore, the approach put forward is based on the principle that replacing onsite affordable housing provision with a payment in lieu should be financially neutral for

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5 Calculating the cost to the developer, in terms of value that would have been forgone had the affordable housing been provided on site
the developer. To achieve this an alternative option for calculating the payment in lieu sum is proposed which is calculated by deducting the residual land value of a scheme that incorporates a viable percentage of affordable housing on-site from a scheme that assumes 100% private housing i.e. the difference in residual land value between the two schemes is the value of the payment in lieu. BNP Paribas highlight that such an approach is already in operation in other London Boroughs including Wandsworth and Richmond upon Thames.

**AFFORDABLE HOUSING TARGET VIABILITY STUDY (2015)**

2.3.19 The Council commissioned BNP Paribas Real Estate to test the viability of providing an appropriate affordable housing target for the Borough. The economic viability of delivering affordable housing must be taken into account in accordance with national policy. Paragraph 173 of the NPPF requires that new developments should not be subject to such a scale of obligations and policy burdens that their ability to be viably developed is threatened. It is recognised that there have been some changes in the costs on development since the Borough’s current affordable housing policy target of 50% was adopted in 2010, particularly the reduction in public grants for affordable housing. At present, the impacts of these changes can only be addressed through site specific financial appraisals which allows developers to demonstrate that the viable level of affordable housing is below the current policy target. Retesting the viability at a strategic level enables setting a target that should be achievable on the vast majority of development sites.

2.3.20 The viability evidence commissioned by the Council demonstrates that a proportion of affordable housing is viable in all residential developments, and all mixed use developments with 30% of commercial floor space. However, the level of viability varies significantly. The range for a generally viable affordable housing target appears to be 35%-40% in the lower value areas to 60% in the very high value area such as Knightsbridge. However, opportunities for significant amounts of development or added floorspace are limited in the high value area and it is therefore unlikely that the area will yield much affordable housing. The report provided the Council with the option of either adopting a single target across the Borough of between 35% and 40% or a split rate, of perhaps 50% in the highest value areas and 35% to 40% elsewhere.

2.3.21 In order to determine the most appropriate affordable target, the Council will need to balance this viability evidence with the overwhelming need for affordable housing set out above.

2.3.22 The Affordable Housing Target Viability Study 2015 included a range of typologies including a scheme comprising four houses and another with five flats. The study looked at hypothetical scenarios of the maximum affordable housing that the schemes could viably provide in the various CIL value zones in the borough using appropriate benchmark land values for each of the zones. The appraisals are structured to incrementally introduce affordable housing until the residual land value and the benchmark land value are equal. The study indicates that in these two small schemes depending on their location in the borough, it would be possible to achieve an affordable housing proportion of between 22% (zone E – Kensington West) and 61% (zone A - Knightsbridge). Even at the lower end of the range at 22% the affordable housing that can be viably achieved is significant given that
there is a strong reliance in the borough on small sites due to its uniquely dense and historic character. The floorspace of these schemes ranges between 600 sq m and 629 sq m GIA. To further support scheme viability, the larger of the two figures from the Viability Study i.e. 629 sq m GIA rounded up to 650 sq m is taken as a suitable threshold. Schemes which meet or exceed this threshold are required to provide affordable housing in-line with Policy CH2. Further information on the calculation of the floorspace threshold is presented in Appendix B.

**AFFORDABLE HOUSING VIABILITY STUDY UPDATE (2016)**

2.3.23 The Council commissioned BNP Paribas Real Estate to undertake an update of the Affordable Housing Target Viability Study to address a number of issues that emerged since the 2015 study was published. These specific issues are summarised as follows:

- Testing the viability impact of various options to vary the tenure split of affordable housing provision away from the current 85% social/affordable rent to 15% intermediate housing split;
- Comment on the suitability of review mechanisms and potential policy criteria and triggers for a range of development types;
- Consider the impact on viability of the emerging requirement for sites providing 10 dwellings or more or 0.5 ha or more to make a contribution towards the delivery of Starter Homes;
- Advise on how the impact of Vacant Building Credit on affordable housing delivery could be mitigated;
- Consider the impact (if any) of new national standards following the Housing Standards Review, including standards set out in the Minor Alterations to the London Plan;
- Consider the impact of ongoing requirements for residual Section 106 requirements at an average of £1,000 per unit; and
- Test the impact of including an element of affordable housing in specialist older persons’ housing developments.

2.3.24 The relevant conclusions are set out below –

**AFFORDABLE HOUSING TENURE SPLIT**

2.3.25 The Council consulted on three specific options for the affordable housing tenure split at the Issues and Option Stage with a fourth open ended option leaving the split to emerge from information collated from Registered Providers and developers. The report concludes that, the impact of varying the rent levels and overall tenure split compared to the base position of 85% affordable rented to 15% intermediate is modest in high value areas, due to the significant difference between market values and affordable housing in the wider sense. Adjustments to the tenure split and/or rents within the overall affordable housing provision therefore makes little difference to the overall residual land values generated by developments. Therefore, the Council could proceed with any of the three options as they all modestly improve viability; no reduction in the overall quantum of affordable housing would be required to accommodate the proposed tenure mixes.
REVIEW MECHANISMS

2.3.26 The report notes the static nature of viability appraisals and that they do not take account of how scheme viability will change as a result of changes in key appraisal inputs, including sales values and build costs. It sets out three main variants of review mechanisms:

Pre-implementation review – The report highlights that this type of review mechanism is largely designed to encourage early implementation; if little time elapses between the two assessments, then the main inputs to the appraisal are unlikely to change significantly and no additional affordable housing would be triggered.

Phase by phase review – This type of review is designed for schemes that will be developed over a period of years, typically with outline planning permission followed by a series of reserved matters applications. Phase by phase reviews would continue up to and including the final phase. There might be a need to cap the level of on-site affordable housing in this phase, as improvements in viability might result in a level of affordable housing that would be unsustainably high.

Post sales review – On single phase developments, it is not possible for a review mechanism to deliver additional on-site affordable housing. A review of viability prior to construction of the development is therefore of limited value in terms of capturing any uplift in sales values when units are sold. This issue has been addressed by Lambeth, Southwark, Waltham Forest, Hounslow and others by adopting a post-implementation review of viability. An example is provided of the Shell Scheme, where Lambeth agreed a review that is triggered when 70% of private units have been sold. Before any additional sales can be completed, the Developer must submit a viability review. If sales values exceed a pre-agreed ‘break-even’ value (the point at which a standard developer’s profit has been achieved), then a ‘surplus’ is generated, which is split 50/50 between the Council and the Developer.

2.3.27 A key point made in the report with regard to review mechanisms is that there are a number of perceived and real risks associated with review mechanism. In order to address perceived risks, review mechanisms should adopt common starting principles, as follows:

- Reviews should not result in any additional on-site provision or payments in lieu until two conditions are satisfied:
  - firstly, the outturn residual land value of the scheme is no lower than the agreed benchmark land value for the site; and
  - secondly, the scheme should generate a ‘normal’ developer’s return and be entering ‘super-profit’ territory.
- There should be a limitation on any additional on-site provision or payment in lieu to a level equating to the provision sought by policy. If all parties are aware of the parameters of additional requirements, it should give them more comfort to proceed.
- Reviews should not expose a developer to any open-ended liability to the local authority.
An equitable arrangement for dividing super-profit between the developer and the local authority, such that the developer is incentivised to achieve improved scheme value.

STARTER HOMES

2.3.28 The report utilised the details of three real development sites previously used for testing the impact of CIL to test the impact of Starter Homes on viability and the delivery of other forms of affordable housing. The developments ranged from 13 to 50 residential units.

2.3.29 The report found that in all cases, the requirement to provide 20% of units as Starter Homes has a significant impact on the residual land values generated by the developments. This is largely due to the level of discount that would need to be offered to ensure the initial price does not exceed the £450,000 unit cap which the government has proposed. Site 1 would require a 61% discount to market value; Site 2 would require an 86% discount to market value; and Site 3 would require a 97% discount to market value.

2.3.30 The report recommends that the Council may wish to consider incorporating the Starter Homes requirement into its affordable housing target. The ‘traditional’ affordable housing tenures would be reduced by approximately 50% of any affordable housing target and the 20% Starter Homes could be added onto that remaining target, as part of the overall affordable housing target requirement, including Starter Homes. So, for example, the impact of a 20% Starter Homes requirement on a 40% ‘traditional’ affordable housing target would be to reduce it by 50% to 20%. If Starter Homes are brought within a new definition of affordable housing, the overall target in this example could be 40% with 20% Starter Homes and 20% ‘traditional’ affordable housing.

2.3.31 The results of the appraisal indicate that the requirement for 20% Starter Homes will adversely impact on viability if sought on top of existing affordable housing percentage targets, but to varying degrees depending on market values achieved in each development. The Council could therefore adopt an overall affordable housing target that incorporates the Starter Home requirement and increase the overall percentage from 30-35% to 35-40%.

2.3.32 The report also highlights that delivering Starter Homes carries more risk than affordable housing as all units need to be developed speculatively and sold to purchasers after the Developer has committed to building the scheme. There are two factors that adversely impact on viability. Firstly, the Developer will incur higher interest costs due to receiving income for the Starter Homes later than had the same units been provided as ‘traditional’ affordable. Secondly, the Developer will need to apply a level of profit to the Starter Homes which is commensurate with market housing, as the risk is comparable for both tenures. These factors have been built in to the appraisals.

VACANT BUILDING CREDIT (VBC)

2.3.33 The report comments that vacant building credit (VBC) does not make schemes more viable, it simply reduces the amount of floorspace that the Council can seek
its affordable housing provision from. Given the central-urban nature of the Borough, where the majority of sites that come forward for redevelopment are brownfield sites and could thus be eligible for VBC (where vacant), this could have a significant impact on the Council’s affordable housing supply. Furthermore, sites are coming forward in the Borough without the assistance of VBC, as affordable housing delivery on individual sites can be adjusted if necessary to assist with site-specific viability issues.

2.3.34 The Vacant Building Credit applies ‘assistance’ to developers who do not need encouragement to bring schemes forward; it merely reduces affordable housing and results in an increase in land value that is not required to bring schemes forward. Other councils have sought to mitigate the impact of this policy by seeking the ‘maximum reasonable proportion’ of affordable housing on a development, rather than seeking a specific percentage target. This then enables the provision of a higher percentage of the part of the scheme not offset by vacant floorspace to offset the affordable housing lost on the ‘offset’ floorspace.

**AFFORDABLE HOUSING VIABILITY STUDY UPDATE (2017)**

2.3.35 The Council commissioned BNP Paribas Real Estate to undertake an update of the Affordable Housing Target Viability Study of June 2015 and July 2016 to address the issues that emerged in the Housing White Paper, February 2017 as set out in paragraphs 2.2.3 to 2.2.8 above.

2.3.36 The update confirms that the Publication Policy CH2 with Proposed Modifications is capable of delivering the mix of affordable housing products outlined in the Housing White Paper without a significant detrimental impact on viability. The tenure mix requiring 50% of affordable homes to be intermediate can provide intermediate rent and affordable home ownership products including starter homes, discounted market sales and shared ownership products.

2.3.37 The report concludes that “While maintaining an overall level of 35% affordable housing, 50% of which is to be provided as Affordable Rent, we have tested the remaining 50% with varying intermediate tenures, including Starter Homes (with affordability amended to household incomes rather than unit price); Discounted Market Sale; and Intermediate Rent. Where schemes are to be provided as build for rent, the whole affordable housing requirement is satisfied through the provision of Affordable Private Rent which generally is viable at 35%. Due to the constraint of affordability, the value generated by these tenures is not significantly different from each other. The change in residual values when varying the mix of the tenure scenarios is relatively modest as a consequence of the limited difference in values.

Our testing of the Council’s affordable housing tenure scenarios indicates that there is little difference in residual land values in comparison to the Publication Policies mix of 50% Affordable Rent and 50% Shared Ownership. The evidence shows that a range of scenarios that could arise from the emerging national requirements in the Housing White Paper do not adversely affect the viability of the Council’s Publication Policy affordable housing floorspace target of 35% and tenure split of 50% social/affordable rent and 50% intermediate (which could include intermediate rent and/or affordable home ownership).”
### SUMMARY

<table>
<thead>
<tr>
<th>Date</th>
<th>Document</th>
<th>Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec 2016</td>
<td>Monitoring Report</td>
<td>RBKC</td>
</tr>
<tr>
<td>Dec 2015</td>
<td>Strategic Housing Market Assessment (SHMA)</td>
<td>RBKC</td>
</tr>
<tr>
<td>Jul 2015</td>
<td>Establishing an Approach to Affordable Housing Payments in Lieu</td>
<td>RBKC</td>
</tr>
<tr>
<td>Jun 2015</td>
<td>Affordable Housing Target Viability Study</td>
<td>RBKC</td>
</tr>
<tr>
<td>Jul 2016</td>
<td>Affordable Housing Target Viability Study Update</td>
<td>RBKC</td>
</tr>
<tr>
<td>Apr 2017</td>
<td>Affordable Housing Viability Study Update</td>
<td>RBKC</td>
</tr>
</tbody>
</table>

#### 2.4 OPTIONS, CONSULTATION AND INTEGRATED IMPACT ASSESSMENT (IIA)

2.4.1 Alternative options were consulted on as part of the Issues and Options (December 2015) and Draft Policies (October 2016) consultation documents. The Consultation Schedules and Consultation Summaries for these are set out in the Consultation Statement published alongside the Publication Policies (January 2017) consultation document and as part of the Submission (May 2017) documents. The options considered through the consultations and as part of the Integrated Impact Assessment (IIA) are summarised below.

2.4.2 The Council has considered the options particularly in light of the ‘tests of soundness’ which are set out in the NPPF:

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework. (paragraph 182)
## AFFORDABLE HOUSING TARGET

2.4.3 The options and alternatives considered are:

<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Adopt a Borough wide affordable housing target of 35%.</td>
<td>Preferred Option for Publication Policy with Proposed Modifications</td>
</tr>
</tbody>
</table>

The Council’s Affordable Housing Target Viability Study June 2015 and its updates of July 2016 and April 2017 have indicated that it would be viable to set a strategic target of 35%-40%. The April 2017 update includes the new definition of affordable housing as proposed in the Housing White Paper, March 2017 and scenarios to include 10% as affordable home ownership products. The Mayor's Draft Affordable Housing and Viability SPG published in November 2016 introduces a ‘threshold’ approach to affordable housing of 35%. Schemes providing this level of affordable housing do not need to submit a financial viability appraisal negating the need for protracted negotiations and offering consistency and certainty for applicants. This approach will be in-line with the Mayor's emerging guidance the Council’s evidence and the proposals in the Housing White Paper.
<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Reasonable Alternative</td>
<td>Inclusion of Starter Homes in-line with the Housing and Planning Act has indicated that it would be viable to set a strategic target of 35%-40%. Setting the target at the higher end of this range i.e. 40% was the preferred option for Draft Policies. It was considered that setting a higher percentage target would better enable achieving the policy objective of securing the maximum reasonable amount of affordable housing and be in accordance with emerging national policy on Starter Homes. The Housing White Paper, March 2017 has confirmed that the Government will not introduce a statutory requirement for starter homes.</td>
</tr>
<tr>
<td>3</td>
<td>Reasonable alternative</td>
<td>Inclusion of Starter Homes in-line with the Housing and Planning Act indicated that it would be viable to set a strategic target of 35%-40%. Setting a range provides less certainty and consistency for applicants. The Housing White Paper, March 2017 has confirmed that the Government will not introduce a statutory requirement for starter homes.</td>
</tr>
<tr>
<td>4</td>
<td>Not a reasonable alternative</td>
<td>A target that is less than what has been shown as viable in evidence would not be positively prepared or justified. It would not conform with the London Plan or national policy and would fail the tests of soundness.</td>
</tr>
<tr>
<td>Option</td>
<td>Status</td>
<td>Reason</td>
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<tr>
<td>5</td>
<td>Adopt a borough wide target at the existing level of 50% or more i.e. business as usual.</td>
<td>Not a reasonable alternative</td>
</tr>
<tr>
<td>6</td>
<td>Adopt a split affordable housing target to enable a higher percentage target in the highest value areas.</td>
<td>Reasonable alternative</td>
</tr>
<tr>
<td>7</td>
<td>Include flexibility in the policy to allow for reduced provision of affordable housing based on site circumstances.</td>
<td>Preferred Option for Publication Policy with Proposed Modifications</td>
</tr>
<tr>
<td>8</td>
<td>Provide the maximum reasonable amount of affordable housing.</td>
<td>Preferred Option for Publication Policy with Proposed Modifications</td>
</tr>
<tr>
<td>Option</td>
<td>Status</td>
<td>Reason</td>
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<tr>
<td>9</td>
<td>The term ‘Price Accessible Housing’ should be used instead of affordable housing. “Price accessible housing” would be based on an agreed percentage of a household’s income, never exceeding 40%.</td>
<td>Not a reasonable alternative</td>
</tr>
</tbody>
</table>

**AFFORDABLE HOUSING TENURE SPLIT**

2.4.4 The options and alternatives considered are:

<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Set a Borough wide target of 50% social/affordable rented housing and 50% intermediate housing.</td>
<td>Preferred Option for Publication Policy with Proposed Modifications</td>
</tr>
<tr>
<td>Option</td>
<td>Status</td>
<td>Reason</td>
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<tr>
<td>--------</td>
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</tr>
<tr>
<td>2</td>
<td>Not a reasonable alternative</td>
<td>This approach is not far from the existing policy of 85:15 but there is a need to increase the provision of intermediate tenure in the borough. This approach would not be in-line with the London Plan which requires 60% to be intermediate. The Mayor’s Draft Affordable Housing and Viability SPG requires at least 30% as intermediate.</td>
</tr>
<tr>
<td>3</td>
<td>Not a reasonable alternative</td>
<td>This approach would not be in-line with the London Plan which requires 60% to be intermediate. The Mayor’s Draft Affordable Housing and Viability SPG requires at least 30% as social/affordable rent. This option would tip the balance too much in favour of intermediate housing. Whilst there is a need to increase the provision of intermediate housing in the borough, there is a significant need for social/affordable rent which needs to be reflected in the policy.</td>
</tr>
<tr>
<td>4</td>
<td>Reasonable alternative</td>
<td>This option would be close to the London Plan split and is in the middle of the two options immediately above. The figures have been rounded to 50:50 which is the preferred option.</td>
</tr>
<tr>
<td>Option</td>
<td>Status</td>
<td>Reason</td>
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<td>--------</td>
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<tr>
<td>5</td>
<td>Set a Borough wide target that takes account of the three scenarios (set out under the first three options) together with further information collated from Registered Providers and developers on the viability of delivering intermediate rent units.</td>
<td>Reasonable alternative</td>
</tr>
</tbody>
</table>

**AFFORDABLE HOUSING THRESHOLD**

2.4.5 The options and alternatives considered are:

<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Maintain the existing approach with affordable housing (contributions or floorspace) sought on schemes with in excess of 800sqm of residential floorspace, with payments in lieu of affordable housing floorspace for schemes only between a minimum of 800sqm and 1,200sqm.</td>
<td>Reasonable alternative</td>
</tr>
<tr>
<td>2</td>
<td>Broadly maintain the existing policy but with an amendment to ensure that once the 800sqm threshold is met, all net floorspace is liable for an affordable housing contribution, i.e. the first 800sqm will no longer discounted.</td>
<td>Reasonable alternative</td>
</tr>
<tr>
<td>Option</td>
<td>Status</td>
<td>Reason</td>
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<tr>
<td>--------</td>
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</tr>
<tr>
<td>3</td>
<td>Consider a revised minimum threshold for the provision of affordable housing in light of local viability evidence demonstrating that small schemes could deliver a proportion of affordable housing. It is anticipated the threshold would continue to be expressed as floorspace to ensure that sites providing a small number of larger units are not exempt from the requirement for affordable housing.</td>
<td>Preferred Option for Publication Policies with Proposed Modifications</td>
</tr>
<tr>
<td>4</td>
<td>Consider the removal of the fixed range for payments in lieu between 800sqm and 1,200sqm GEA floorspace and instead apply the general policy provisions for when off site or payments in lieu may be considered appropriate.</td>
<td>Preferred Option for Publication Policies with Proposed Modifications</td>
</tr>
<tr>
<td>5</td>
<td>Consider thresholds for on-site / off-site provision of affordable housing.</td>
<td>Reasonable alternative.</td>
</tr>
</tbody>
</table>
### CALCULATING PAYMENTS IN LIEU

2.4.6 The options and alternatives considered are:

<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Include exceptions for taking payments in lieu / off-site provision where appropriate such as where it could assist the Council's aims for estate regeneration.</td>
<td>Preferred option for Publication Policies with Proposed Modifications</td>
</tr>
</tbody>
</table>

#### CALCULATING PAYMENTS IN LIEU

<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Calculate all payments in lieu for affordable housing by comparing residual land values on a site-by-site basis by requesting two viability assessments – one reflecting policy compliant affordable housing provision on-site and the second with 100% private housing.</td>
<td>Preferred option for Publication Policies with Proposed Modifications</td>
</tr>
<tr>
<td>2</td>
<td>Introduce zonal payment in lieu charges based on the adopted CIL Charging Zones using benchmark land values and development types to compare residual land values for schemes with and without on-site affordable housing.</td>
<td>Reasonable alternative</td>
</tr>
<tr>
<td>Option</td>
<td>Status</td>
<td>Reason</td>
</tr>
<tr>
<td>--------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>3</td>
<td>Reasonable alternative</td>
<td>The Council’s existing policy sets out a borough-wide standardised charge. However, given the difference in values across the borough, the standardised charge was not the most effective approach in securing the maximum reasonable amount of affordable housing.</td>
</tr>
<tr>
<td>4</td>
<td>Not a reasonable alternative</td>
<td>Provision of affordable housing is a national requirement. Paragraph 50 of the NPPF requires Councils to plan for a mix of housing based on current and future demographic and market trends, as well as the needs of specific groups within the community. The size, type, tenure and range of housing required should also be identified. Where a need for affordable housing has been identified, policies should be set for meeting this need. The suggested approach would not be compliant with the national policy or be in conformity with the London Plan.</td>
</tr>
<tr>
<td>5</td>
<td>Preferred option for Publication Policies with Proposed Modifications</td>
<td>The policy sets a target and allows for consideration of the maximum reasonable amount on a case by case basis subject to a viability assessment.</td>
</tr>
</tbody>
</table>
SECURING THE MAXIMUM REASONABLE AMOUNT OF AFFORDABLE HOUSING

2.4.7 The options and alternatives considered are:

<table>
<thead>
<tr>
<th>Option</th>
<th>Status</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Preferred option for Publication Policies with Proposed Modifications</td>
<td>The policy objective is to provide the maximum reasonable amount of affordable housing. Requiring an open book viability assessment ensures transparency and is in-line with paragraph 7 of the NPPG.</td>
</tr>
<tr>
<td>2</td>
<td>Preferred option for Publication Policies with Proposed Modifications</td>
<td>Use of review mechanism is based on the Council’s evidence Affordable Housing Target Viability Study Update, July 2016. It is also in-line with guidance in the NPPG (paragraph 17).</td>
</tr>
<tr>
<td>3</td>
<td>Reasonable alternative</td>
<td>Further guidance can be considered separately to the LPPR such as in a Supplementary Planning Document (SPD). The proposed publication policy and its reasoned justification provide sufficient clarity on what is required.</td>
</tr>
</tbody>
</table>
### Option 4
**Review mechanisms should only be used prior to implementation.**

**Status:** Reasonable alternative

**Reason:** As set out in paragraphs 2.3.26 – 2.3.27 above the Affordable Housing Target Viability Study Update included variants of review mechanisms which included their use prior to implementation. However, this is not the only scenario where they can be used to maximise the provision of affordable housing. The Mayor’s Draft Affordable Housing and Viability SPG provides further details on review mechanisms.

### Option 5
**Review mechanism should only be used in large multi-phased schemes.** Where a scheme is relatively simple and will be implemented in the short-term over a single phase, a review mechanism is not appropriate.

**Status:** Reasonable alternative

**Reason:** As set out in paragraphs 2.3.26 – 2.3.27 above the Affordable Housing Target Viability Study Update included variants of review mechanisms which included their use prior to implementation. However, this is not the only scenario where they can be used to maximise the provision of affordable housing.

### 2.5 PUBLICATION POLICY WITH PROPOSED MODIFICATIONS

Following consideration of the above options, consultation and reasonable alternatives, the existing Local Plan policy CH2 is proposed to be amended as follows (red = Draft Policies and blue = Publication Policies and green = Submission Proposed Modifications):

**Policy CH2 Housing Diversity**
[Moved to new Policy CH3] The Council will ensure new housing development is provided so as to further refine the grain of the mix of housing across the borough.

[Moved to new Policy CH3] To deliver this the Council will, in relation to:

**Housing Mix and Type**
[Moved to new Policy CH3] require new residential developments to include a mix of types, tenures and sizes of homes to reflect the varying needs of the borough, taking into account the characteristics of the site, and current evidence in relation to housing need;
require new residential developments, including conversions, amalgamations and changes of use, to be designed to as a minimum achieve all the following standards:

i. lifetime homes;
ii. floorspace and floor to ceiling heights;
iii. wheelchair accessibility for a minimum of 10 per cent of dwellings; where compliance with the above standards is not possible because of other policy requirements, to require new residential developments to demonstrate that all reasonable measures to meet them have been taken;

c. encourage extra care housing, particularly in the south of the borough;

[Moved to new Policy CH4] d. protect houses in multiple occupation except where a proposal concerns conversion into self-contained studio flats, and require any such proposal to be subject to a s106 agreement to ensure the flats remain as studios in perpetuity;

[Moved to new Policy CH4] e. resist the loss of residential hostels except where the site will be utilised as a different form of affordable housing;

[Replaced by Policy CH1] f. resist development which results in the net loss of five or more residential units;

[Moved to new Policy CH1] g. require development that results in the amalgamation of residential units to be subject to a s106 agreement to ensure the resultant units are not further amalgamated in the future;

[Moved to new Policy CH3] h. require housing schemes to include outdoor amenity space;

[Replaced by new Policy CH2] Affordable Housing

i. require developments to provide affordable housing at 50 per cent by floor area on residential floorspace in excess of 800sq.m gross external area;

j. require provision to be in the form of a commuted sum in lieu of the equivalent amount of affordable housing floorspace where in excess of 800sq.m but less than 1,200sq.m of gross external residential floor space is proposed;

k. require affordable housing provision of affordable homes on site where more than 1,200sq.m of gross external residential floor space is proposed, unless exceptional circumstances exist;

l. require any off-site affordable housing to be provided in any wards except the following: Golborne, St Charles, Notting Barns, Colville, Norland, Earl’s Court and Cremorne;

m. require an application to be made for any ‘off-site’ affordable housing concurrently with the main planning application and that the two applications are linked through a s106 agreement or unilateral undertaking;

n. require that affordable housing and market housing are integrated in any development and have the same external appearance;

o. require the affordable and market housing to have equivalent amenity in relation to factors including views, daylight, noise and proximity to open space, playspace, community facilities, and shops;

p. where a scheme over 800sq.m does not provide 50 per cent of gross external residential floorspace for affordable housing, the applicant must demonstrate:

i. the maximum reasonable amount of affordable housing is provided through the provision of a viability assessment, using the GLA toolkit or an agreed alternative
ii. the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision;

q. require that affordable housing includes a minimum of 15 per cent intermediate housing in Golborne, St.Charles, Notting Barns, Norland, Colville, Earl’s Court and Cremorne wards. In all other wards a minimum of 85 per cent social rented housing should be provided;

r. require that the provision of intermediate housing is provided at the ‘usefully affordable’ point.

Gypsies and Travellers
s. protect the existing Westway travellers’ site which the Council jointly manages with the London Borough of Hammersmith and Fulham. Additional sites for temporary or permanent use will be identified in the forthcoming Gypsy and Traveller DPD and should meet the following criteria:

i. the site can provide for a satisfactory arrangement of pitches, permanent buildings and open space;

ii. use of the site would have no significant detrimental effect on the amenity of occupiers of adjoining land;

iii. use of the site would be acceptable in terms of the visual amenity;

iv. the use could be supported by adequate physical and social infrastructure in the locality.

Policy CH2: Housing Diversity - Affordable Housing

The Council will seek the maximum reasonable amount of affordable housing.

To deliver this the Council will require:

a. a proportion of starter homes on qualifying sites as defined in the Regulations;

b. developments to provide 40 35% of all residential floorspace as affordable housing including affordable home ownership products on sites that provide 650 sq m or more of gross residential floorspace (gross internal area), once the threshold is met all gross residential floorspace is liable for an affordable housing contribution;

c. separate to any starter homes provision, overall 50% of the remaining affordable housing provision to be social rent / affordable rent and 50% to be intermediate including intermediate rent and affordable home ownership products;

d. provision of affordable housing to be on-site unless exceptional circumstances justified by robust evidence exist which support provision off-site or providing a payment in lieu;

me. require an application to be made for any ‘off site’ affordable housing concurrently with the main planning application and that the two applications are linked through a s106 agreement or unilateral undertaking;

pf. where a qualifying scheme over providing 800650 sq. m or more gross residential floorspace (gross internal area) does not provide 540 35% per cent of gross external residential as affordable floorspace on-site, the applicant must demonstrate all of the following:
<table>
<thead>
<tr>
<th></th>
<th>the maximum reasonable amount of affordable housing is provided through the provision of a <strong>open book financial</strong> viability assessment, using the GLA toolkit or an agreed alternative;</th>
</tr>
</thead>
<tbody>
<tr>
<td>ii.</td>
<td><strong>supporting evidence for</strong> the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision;</td>
</tr>
<tr>
<td>iii</td>
<td>to calculate payments in lieu for affordable housing, <strong>two viability assessments</strong> comparing residual land values on a site-by-site basis — one reflecting <strong>policy-compliant</strong> the maximum reasonable amount of affordable housing provision on-site and the second with 100% private housing;</td>
</tr>
</tbody>
</table>

ng. **require that** affordable housing and market housing are **to be** integrated in any development and have the same external appearance;

oh. **require** the affordable and market housing to have equivalent amenity in relation to factors including views, **siting**, daylight, noise and proximity to open space, playspace, community facilities and shops;

---

**KEY DIAGRAM AND PROPOSALS MAP**

2.5.1 No changes are required to be made to the Key Diagram or the Proposals Map.

2.6 **DUTY TO COOPERATE AND STRATEGIC ISSUES**

2.6.1 The legal obligation of the ‘duty to cooperate’ requires the Council to “engage constructively, actively and on an ongoing basis” and have “regard to activities” (i.e. strategies, plans, policies) of other bodies in the preparation of Local Plans “so far as relating to a strategic matter”. This includes “considering whether to consult on and prepare agreements or joint approaches”. A “strategic matter” relates to “sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular)… in connection with infrastructure that is strategic”. Strategic matters are further defined in paragraph 156 of the NPPF and paragraph 013 of the NPPG on the duty to cooperate.

2.6.2 Nevertheless, Figure 3 shows the actions the Council has taken with regard to the duty and the relevant prescribed bodies. It should be noted that the Council has received a letter of conformity from the GLA stating with regard to proposed Policy CH2 that “The proposed amendments to the policy and reasoned justification to reference the Mayor's Draft Affordable Housing and Viability SPG, are welcomed. However, it is strongly recommended that Policy CH2b is explicit that the 3S% threshold should be met without the use of public subsidy and that all applicants are expected to explore the use of grant and other public subsidy. It is currently anticipated that the SPG will be finalised in late Spring 2017. The borough will be aware that Government no longer intends to apply a fixed Starter Home requirement on a site by site basis and may wish to update the policy to reflect this.”

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6 Section 33A of the Planning and Compulsory Purchase Act 2004, as inserted by Section 110 of the Localism Act 2010
7 Section 33A(4) of the Planning and Compulsory Purchase Act 2004, as inserted by Section 110 of the Localism Act 2010
8 [http://planningguidance.communities.gov.uk/blog/policy/](http://planningguidance.communities.gov.uk/blog/policy/)
<table>
<thead>
<tr>
<th>Prescribed body/ies / LPAs</th>
<th>Action(s)</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>The Council has had regard to all relevant strategies, plans and policies of the relevant prescribed bodies in preparing the policies – as set out in Legislation, Policy and Guidance sections of Policy Formulation Reports (PFRs)</td>
<td>Ongoing</td>
</tr>
<tr>
<td>All</td>
<td>Local Plan Partial Review Issues and Options consultation – see Consultation Schedule</td>
<td>Dec 2015 – Feb 2016</td>
</tr>
<tr>
<td>All</td>
<td>Local Plan Partial Review Publication Policies Regulation 19 Consultation – see Consultation Schedule</td>
<td>Feb – Mar 2017</td>
</tr>
<tr>
<td>Mayor of London</td>
<td>Liaison meeting with GLA officers on the LPPR and emerging London Plan / SPGs. There was general support from GLA officers on the approach taken for housing policies.</td>
<td>Feb + Nov 2016 and March 2017</td>
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<tr>
<td>Mayor of London</td>
<td>Ongoing contribution to the London Development Database (LDD) – monitor housing completions, approvals and development pipeline.</td>
<td>Ongoing</td>
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<tr>
<td>LBHF</td>
<td>RBKC/LBHF Planning Policy Liaison meetings - The meetings cover a range of issues including updates on progress with the LPPR.</td>
<td>Quarterly</td>
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<td>LBHF</td>
<td>RBKC response to LBHF Regulation 18 Draft Local Plan – RBKC responded with reference to the Duty to Cooperate to clarify how the housing market area has been defined for LBHF. It was noted that the published Strategic Housing Market Assessment 2014/15 seems to take the borough boundaries as a starting point.</td>
<td>Feb 2015</td>
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<tr>
<td>LBHF</td>
<td>RBKC response to LBHF Regulation 19 Proposed Submission Local Plan - The Council noted that LBHF concluded that LBHF and RBKC are not within a single housing market area and agreed with this approach.</td>
<td>Oct 2016</td>
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<tr>
<td>OPDC / LBHF / LB Ealing / LB Brent</td>
<td>Regular OPDC Project Team Meetings – attendance when necessary – OPDC housing issues are discussed when relevant.</td>
<td>Fortnightly</td>
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</tbody>
</table>

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10 Regulation 4 of The Town and Country Planning (Local Planning) (England) Regulations 2012
<table>
<thead>
<tr>
<th>Prescribed body/ies / LPAs</th>
<th>Action(s)</th>
<th>Date(s)</th>
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</thead>
<tbody>
<tr>
<td>OPDC</td>
<td>RBKC/OPDC Planning Policy Liaison Meetings - OPDC housing issues are discussed when relevant.</td>
<td>May + Sep 2015; Jan + Apr 2016</td>
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<tr>
<td>OPDC</td>
<td>RBKC response to Regulation 18 Draft Local Plan - The Council responded to the consultation and in relation to housing noted that “In realising its wider strategic role and in supporting west London’s housing needs, the combined area of the London Boroughs of Brent, Ealing and Hammersmith &amp; Fulham has been identified as OPDC’s housing market area in OPDC’s draft SHMA….. The Council supports this approach. It does not contradict the Council’s position (as proposed in the published Local Plan Partial Review Issues and Options SHMA), in that Kensington and Chelsea, whilst within the London housing market area, is its own housing market area for the purpose of defining objectively assessed need.”</td>
<td>Mar 2016</td>
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<tr>
<td>Mayor of London</td>
<td>Draft Minor Alterations to the London Plan – Attended and Observed</td>
<td>Oct 2015</td>
</tr>
<tr>
<td>Neighbouring LPAs</td>
<td>Housing Responses to Local Plan consultations relating to SHMAs and Objectively Assessed Need (OAN) - LBHF, OPDC</td>
<td>As above</td>
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</table>

The Mayor of London responded to issues related to affordable housing alongside other
issues and emphasized that any fixed targets as well as policies on tenure split and payments in lieu for affordable housing should be established in line with London Plan policy 3.11 in order to maximise affordable housing provision across the borough.

With regard to tenure split, The Mayor referred to London plan policy 3.11, which seeks a split of 60% social and affordable rent and 40% intermediate rent or sale. Kensington and Chelsea’s split should be based on its evidence of local need taking account of availability of funding for certain products and development viability.

**Historic England**
Historic England has commented on the success of some areas of social housing which are not dissimilar from the mansion block form. Their comments relate to the character and architectural qualities of such buildings.

*Figure 3: Duty to cooperate strategic issues, prescribed bodies and Council actions*
Affordable housing: housing that is provided for sale or rent to those whose needs are not met by the market (this can include housing that provides a subsidised route to home ownership), and which meets the criteria for one of the models set out below.

Social rented and affordable rented housing: eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

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

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

Starter homes is housing as defined in Sections 2 and 3 of the Housing and Planning Act 2016 and any subsequent secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute at the time of plan-preparation or decision-taking. Local planning authorities should also include income restrictions which limit a person’s eligibility to purchase a starter home to those who have maximum household incomes of £80,000 a year or less (or £90,000 a year or less in Greater London).

Discounted market sales housing is housing that is sold at a discount of at least 20 per cent below local market value. Eligibility is determined with regard to local incomes and local house prices. It should include provisions to remain at a discount for future eligible households.

Affordable private rent housing is housing that is made available for rent at a level which is at least 20 per cent below local market rent. Eligibility is determined with regard to local incomes and local house prices. Provision should be made to ensure that affordable private rent housing remains affordable for future eligible households.
available for rent at a discount for future eligible households or for alternative affordable housing provision to be made if the discount is withdrawn. Affordable private rented housing is particularly suited to the provision of affordable housing as part of Build to Rent Schemes.

**Intermediate housing** is discount market sales and affordable private rent housing and other housing that meets the following criteria: housing that is provided for sale and rent at a cost above social rent, but below market levels. Eligibility is determined with regard to local incomes and local house prices. It should also include provisions to remain at an affordable price for future eligible households or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement. These can include Shared Ownership, equity loans, other low cost homes for sale and intermediate rent (including Rent to Buy housing).
APPENDIX B: AFFORDABLE HOUSING THRESHOLD FIGURE

1. The Council’s Affordable Housing Target: Viability Study, June 2015 includes a number of housing typologies to test the level of affordable housing that would be viable. The typologies include two small schemes of 4 houses and 5 flats respectively. The appraisals are structured to incrementally introduce affordable housing until the residual land value and the benchmark land value are equal. The study indicates that in these two small schemes depending on their location in the borough, it would be possible to achieve an affordable housing proportion of between 22% (zone E – Kensington West) and 61% (zone A - Knightsbridge).

2. Even at the lower end of the range at 22% the affordable housing that can be viably achieved is significant given that there is a strong reliance in the Borough on small sites due to its uniquely dense and historic character.

3. Table 4.1.2 of the Affordable Housing Target: Viability Study, June 2015 sets out the size mix of the schemes that were tested. The floor areas in Table 4.1.2 are net internal areas, rather than gross. The gross to net ratios applied are set out in Section 4.4 of the Viability Study (i.e. 100% for site type 1 and 85% for site type 2).

4. The split between private and affordable homes is assumed to be 80% and 20% (rounded from 22%) as that is the lower figure shown to be viable for these schemes in the relatively lower value areas.

Floorspace of the scheme with 4 houses (Site Type 1)

5. For the scheme with 4 houses, Table 4.1.2 assumes a 50:50 split between 3 bed and 4 bed houses.

No. of Private Houses (80% of 4) = 3

Assuming two houses are 3 bed and one is 4 bed, the floorspace would be –

\[ 2 \times (150 \text{ sq m}) + 200 \text{ sq m} = 500 \text{ sq m} \]

No. of affordable houses (20% of 4) = 1

Assuming the affordable house was a 3 bedroom unit, the size would be 100 sq m

Total net internal Area (A+B) = 600 sq m

Gross to net ratio – 100%

**Total Gross Internal Area (GIA) – 600 sq m**

Floorspace of the scheme with 5 flats (Site Type 2)
6. For the scheme with 5 flats, Table 4.1.2 assumes 20% 2 bed flats, 40% 3 bed flats and 40% 4 bed flats.

No. of Private Houses (80% of 5) = 4

Assuming one flat is two bed, two flats are 3 bed and one flat is 4 bed (based on the size mix split above), the floorspace would be –

90 sq m + 2 X (110 sq m) + 150 sq m = 460 sq m

No. of affordable houses (20% of 5) = 1

Assuming the affordable flat was a 2 bedroom unit, the floorspace would be 75 sq m

Total Net Internal Area (A+B) = 535 sq m

Gross to net ratio – 85%

**Total Gross Internal Area (GIA) – 535/0.85 = 629 sq m**