

# Affordable Housing SPD



LOCAL DEVELOPMENT FRAMEWORK

ROYAL BOROUGH OF KINGSTON UPON THAMES

**Adopted - May 2013**



## Contents

1 Introduction	1
2 Background: Housing Need and Planning Policy Context	3
3 What is Affordable Housing?	5
4 When does the affordable housing policy apply?	8
5 Determining the proportion and mix of affordable housing on a site	10
6 Off-site provision and payments in-lieu	14
7 Pre-application discussions	19
<b>Annexes</b>	
Annex 1: Core Strategy Policy DM15 and Supporting Text	21
Annex 2: Development Appraisal Criteria	23
Annex 3: Small Sites - Determination of Viability and Calculation of Payment in Lieu	26
Annex 4: Model S106 Planning Obligation	33
Annex 5: Glossary	41

## 1 Introduction

- 1.1 Kingston has one of the lowest populations in London, but the population of the Borough has been growing in recent years and it is expected to continue to increase for the foreseeable future. The Borough's population in 2013 is estimated at 162,167 and is projected to increase by 10.4% to 2031<sup>(1)</sup>. These population projections show that there will be an increasing pressure on the Borough's housing stock, while technical research studies show a need for affordable housing.
- 1.2 House prices and rents in the Borough are high. Many people on low or modest incomes cannot afford to house themselves in the market and for a minority of our residents, this leads to overcrowding, insecurity and even homelessness. So in planning for more homes we need to work especially hard to produce more affordable housing.
- 1.3 The Council's Community Plan, The Kingston Plan (2009), highlights affordable housing need as a key issue, where Objective 6 seeks to 'increase supply of housing and its affordability'. The Core Strategy Objective 16 also seeks to ensure the provision of an appropriate mix of dwelling sizes, types and tenures to meet the full spectrum of local housing needs, stating that affordable homes will be provided by partnership working and through development management.
- 1.4 The lack of affordable housing means that the needs of local residents are not met, as suitable housing infrastructure is not provided, and this is contrary to the interests of creating sustainable, inclusive and mixed communities.

### The Purpose of this Document

- 1.5 The purpose of this document is to help deliver good quality affordable housing of the right type, size and tenure, through the planning process. It has been prepared as a 'Supplementary Planning Document' (SPD) to support Policy CS10 (Housing Delivery) and Policy DM15 (Affordable Housing) of the Royal Borough of Kingston Local Development Framework Core Strategy. Policy DM15, with its supporting text, is set out in full at Annex 1.
- 1.6 This document applies primarily to those proposals where criteria c, d and e of Policy DM15 apply; where a proportion of affordable housing is sought as part of a private development that includes residential use. However, certain elements such as the Council's expected dwelling mix are likely to be relevant when considering other schemes that provide affordable housing.
- 1.7 The intention is that this SPD will help all parties involved (the Council, developers, landowners and Registered Providers) deliver affordable housing through new development. The SPD seeks to provide greater clarity and certainty, particularly in terms of:
  - the planning process leading to submission of a planning application
  - when the affordable housing policy applies
  - the proportion of affordable housing sought in private schemes
  - the expected affordable housing dwelling mix (size, type and tenure)

1 Greater London Authority (GLA) 2012-Round Population Projections

## 1 Introduction

- 1.8** The Council will expect planning applications that involve an element of affordable housing secured via Policy DM15 to be accompanied by a Section 106 Planning Obligation. The Council has prepared a model Section 106 Planning Obligation (set out in Annex 4 for information). The S106 agreement will need to be tailored to individual site circumstances which may require other S106 contributions.
- 1.9** A glossary of terms is provided in Annex 5.

### **Status of this Document**

- 1.10** This SPD on affordable housing forms part of the Royal Borough of Kingston 'Local Development Framework'. It will therefore be a material consideration in the determination of planning applications. It has been prepared in line with the requirements of the Planning and Compulsory Purchase Act 2004 and associated regulations, and guidance on Supplementary Planning Documents.

## 2 Background: Housing Need and Planning Policy Context

### Housing Need

- 2.1** The cost of housing in and around the Borough is high and there is a severe shortfall in the availability of affordable housing. At the end of August 2012 there were 8,430 on the Council's Common Housing Register, of which 319 were in temporary accommodation.
- 2.2** Government guidance on housing and planning has emphasised the requirement for local authorities to assess housing need. A borough-wide Strategic Housing Market Assessment (SHMA), published in 2009, underpins the Council's housing strategies and Core Strategy Policy DM15 Affordable Housing. The assessment established that there is an affordability problem in the Borough and suggested that, to meet housing need, 1,738 affordable homes would need to be provided annually. Policy DM15 of the Core Strategy commits the Council to seeking to deliver at least 2,000 new affordable homes over the lifetime of the plan.
- 2.3** During 2011, the Council's Common Housing Register was also analysed to establish detailed information on housing need in the Borough. In addition to the required dwelling mix set out in this document this analysis has also helped to inform the affordability assessment levels set out in Section 3.

### Planning Policy Context

- 2.4** The National Planning Policy Framework (NPPF) provides direction to local planning authorities to deliver a wide choice of high quality homes. This includes assessing needs for affordable housing and setting policies to meet this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.
- 2.5** The Development Plan for the Royal Borough of Kingston comprises:
- The London Plan (2011)
  - The Royal Borough of Kingston Local Development Framework Core Strategy (April 2012)
- 2.6** The Council, as the local planning authority, must determine planning applications in accordance with the statutory Development Plan unless material considerations indicate otherwise.
- 2.7** The London Plan policy most relevant to this SPD is Policy 3.12 'Negotiating Affordable Housing on Individual Private Residential and Mixed-use Schemes'. The Mayor has produced Supplementary Planning Guidance on housing (published November 2012) which elaborates on the approach set out in Policy 3.12. Paragraph 4.4.3 of the SPG states that, "Any site suitable for housing provision should normally be considered suitable to provide some affordable housing...".
- 2.8** The Mayor expects referred planning applications to be accompanied by a comprehensive economic viability assessment.

## 2 Background: Housing Need and Planning Policy Context

- 2.9** Kingston's Core Strategy policy on affordable housing is Policy DM15 'Affordable Housing' (set out in full at Annex 1). The Core Strategy has a target that 50% of all additional housing in the Borough will be affordable. This target was derived from local evidence during the process of preparing the Core Strategy.
- 2.10** This Supplementary Planning Document amplifies the Council's Core Strategy Policy DM15 within the context of the London Plan approach. In particular, it is considered that the approach is consistent with London Plan Policy 3.12.
- 2.11** In addition to the requirements of affordable housing policy it is also important to ensure that the housing delivered is of high quality, in accordance with Core Strategy Policy DM13 'Housing Quality and Mix'. New residential development should be designed and built to 'Lifetime Homes' standards and ensure 10% of units are wheelchair accessible. Further guidance on housing quality can be found in:
- the Mayor's Housing SPG (November 2012)
  - the Council's Residential Design Guide SPD (2013)
  - the Council's Lifetime Homes and Wheelchair Housing Supplementary Planning Advice Note (2009)

## 3 What is Affordable Housing?

- 3.1 One of the purposes of this SPD is to clarify the definition of what constitutes affordable housing in Kingston. This SPD provides the following definition of affordable housing in line with the NPPF:

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

- **Social Rented Housing**

Housing owned by local authorities and Registered Providers, 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 Greater London Authority.

- **Affordable Rented Housing**

Let by local authorities or 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 per cent of the local market rent (including service charges, where applicable).

There is a wide variation in market rents in Kingston, so there is a need to ensure Affordable Rented Housing is affordable to households eligible for social housing. The Council's position statement on the application of Affordable Rent within the Borough is contained in the Housing Strategy 2011-2015.

Developers and Registered Providers will be expected to take into account advice from Housing Services on Affordable Rent when bringing forward developments that include a requirement for affordable housing. Rental levels will need to be agreed with the Council as part of the development management process. The service charge is an integral component of housing cost so needs to be taken into account when assessing affordability of rented units. The agreed approach adopted by our partner Registered Providers is that Affordable Rent levels will not exceed the applicable Local Housing Allowance.

The position statement on Affordable Rent will be reviewed from time to time, taking into account possible changes in demand and income profiles for affordable housing, and the effects of welfare reform including the introduction of Universal Credit.

- **Intermediate housing**

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. In Kingston the cost to the occupier, in terms of weekly outgoings, should be significantly below the maximum affordability

### 3 What is Affordable Housing?

levels set out in Table 1 (the figures take account of intermediate housing occupiers' savings and existing equity). Key worker housing is also considered to be intermediate housing as long as it complies with the affordability criteria.

- 3.2 Low cost homes for sale must meet the identified priority needs, fulfil the affordability criteria and be held in perpetuity to ensure they remain affordable<sup>(2)</sup>. Close attention needs to be paid to the costs involved before any form of market housing could be defined as affordable.
- 3.3 All affordable housing provided within the Borough will be subject to nomination agreements with our Partner Registered Providers to ensure that they are occupied by persons nominated by the Council.

#### Affordability Criteria - Intermediate Housing

- 3.4 The weekly cost to the occupier will be used to determine whether the proposed intermediate units are affordable to households in housing need.
- 3.5 Data from the GLA's housing needs Support Study (2005), the Council's Strategic Housing Market Assessment (2007) and the Council's Common Housing Register (Summer 2011) has been used to determine the affordability criteria for intermediate provision.<sup>(3)</sup>
- 3.6 Table 1 outlines the levels at which a dwelling would become unaffordable. It should be noted that rent and/or mortgage payments, service charges, ground rent (expectation that this would be at a peppercorn), parking and any other compulsory charges are considered as the cost of housing to the occupier. The figures relate to the gross maximum household income above which a household would not qualify for intermediate housing, i.e. £30,035.

**Table 1 Cost to Occupiers Affordability Assessment Levels (Summer 2011)**

No. of Bedrooms	Weekly	Monthly	Annually
1	£143	£620	£7,436
2	£173	£750	£8,996
3+	£205	£888	£10,660

2 Additional covenants to those in the model Section 106 Planning Obligation at Annex 3 will be required to ensure that the affordable housing remains affordable in perpetuity.

3 The GLA's "London & Sub-regional Support Study (2005)" supported the Housing Needs Studies across London and concluded that within the South West London sub-region, the gross maximum household salary above which a household would not qualify for intermediate need is £30,035. It assumes that households earning up to £15,000 (net) per annum are able to afford up to 25% on housing costs, while households earning £40,000 per annum or more are able to afford 35%. The Council's Strategic Housing Market Assessment (2009) identified the average annual household salary at £37,076 per annum, however, the Council's Common Housing Register indicates that average salaries have not increased, and for households between the thresholds £15,000 and £40,000 on the register (Summer 2011) the average income was circa £26,000. As incomes have not kept pace proportionally with the cost of living, the 2005 household income figure will be applied to the affordability levels.

- 3.7** At the discretion of the Head of Housing, depending on the circumstances of each case, the Council may agree to vary these in exceptional circumstances. Applicants are encouraged to engage early with a Partner Registered Provider so that 'cost to occupier' considerations can inform discussions with the Council on scheme viability.

### **Perpetuity**

- 3.8** The Council requires all social rented housing to be provided in perpetuity, through the use of a Section 106 Planning Obligation. This is usually achieved through management of the affordable housing by a Registered Provider. Social rented homes subsidised by grant funding are subject to the legal Right to Buy/Acquire provisions.
- 3.9** Shared ownership or New Build HomeBuy homes will remain affordable in perpetuity but may be subject to occupiers 'stair-casing' to full ownership by purchasing additional equity in the property. The grant that was initially invested in the additional equity purchased by the occupier can generally be recycled to fund new affordable housing provision elsewhere in the Borough.

### 4 When does the affordable housing policy apply?

- **Private residential and mixed-use developments (including live/work)<sup>(4)</sup>**

- 4.1 Policy DM15 and the requirements of this SPD apply to developments that include 5 or more dwellings or sites capable of delivering 5 or more units.
- 4.2 The best use must be made of development sites in accordance with planning policies on density and overall objectives for sustainable development.
- 4.3 In the event that planning permission is granted for a mixed-use scheme, and a subsequent proposal on the site seeks a change of use from a non-residential element to residential use, this will trigger a reassessment of the requirement for affordable housing to be provided on the site.

- **Sheltered Housing and extra care homes**

- 4.4 Policy DM15 will be applied to schemes for sheltered housing and extra care homes that fall within the thresholds. When considering planning applications for 'market' sheltered accommodation the Council's Housing Department will confirm whether or not there is a need for affordable sheltered accommodation. If there is, the required amount of affordable housing will be sought as sheltered accommodation on site. If there is no identified need for affordable sheltered housing, the developer will be required to provide an element of general needs or other forms of affordable supported housing on site, through re-design exercises if necessary. The Council will look closely at proposals for extra care housing to assess if the support needs of the residents, the provision of on-site care and other management arrangements would mean that it would not be appropriate to seek an affordable housing contribution.

- **Residential Care and Nursing Homes**

- 4.5 Residential care homes and nursing homes, where the accommodation is non-self contained, fall within Use Class C2 (Residential Institutions) and are not subject to the affordable housing policy.

- **Student Housing**

- 4.6 Subject to viability considerations the Council will expect student housing proposals on sites capable of delivering 5 or more conventional units to provide affordable housing. Developments are likely to be exempt if the accommodation is secured by a planning agreement which requires all occupants to be enrolled as students at higher education institutions within the Borough, e.g. Kingston University or Kingston College.

---

4 Live/work units are considered to be residential for the purposes of assessing whether Policy DM15 applies. However, live/work units are not deemed to be appropriate for the provision of affordable housing. Where a scheme of live/work units triggers the affordable housing requirement, the affordable element should be provided in the form of wholly residential units, except where solely residential development is not permitted.

- 4.7 This approach is in line with The London Plan (2011) which states, in para 3.53, that “Student accommodation should be secured as such by planning agreement or condition relating to the use of the land or to its occupation by members of specified educational institutions. If the accommodation is not robustly secured for students, it will normally be subject to the requirements of affordable housing policy.”
- 4.8 The Council’s approach regarding affordable housing is normally a presumption of on-site delivery, with off-site provision and a payment in-lieu normally deemed to be a fall-back solution on sites where on-site delivery would be impractical. Applying this approach the applicant would need to consider whether delivery on-site would be practicable. Consideration of the following factors will help to determine whether or not provision of on-site affordable housing is possible:

- Is the scheme capable of accommodating the affordable housing in a separate building on the site?
- If not, can the affordable housing units be accommodated in the student housing building? Does this interrupt the stacking of units of the same type and thus reduce the efficiency of the building?
- Is the building capable of accommodating separate cores for the affordable housing?
- Does the building provide adequate separation of the affordable housing from the facilities that will be provided for the occupants of the student housing?
- Does the design and layout of the building require the acquiring Registered Provider to bear service charge costs?
- Can a shared building be designed to meet the regulatory requirements for affordable housing of the Homes and Communities Agency without creating a disproportionate cost burden on the student housing?
- Is the affordable housing within the building capable of separate management by the Registered Providers? If not, are Registered Providers in the market interested and suitably qualified in managing student housing schemes?

- **Hostels**

- 4.9 Hostels (classified as sui generis) are not required to provide additional affordable housing.

### 5 Determining the proportion and mix of affordable housing on a site

- 5.1** On schemes where the affordable housing policy applies, the Council will seek to secure the provision of affordable housing in accordance with Policy DM15, through a planning obligation under Section 106 of the Town and Country Planning Act 1990. The Council has prepared a model Section 106 Planning Obligation (set out in Annex 3 for information).
- 5.2** The affordable housing policy therefore places an obligation on a landowner and/or developer of a site to consider how development proposals affected by the policy may provide an element of affordable housing, prior to the sale or acquisition of a site. This can be achieved through a reduction in the land value and/or reducing the costs of providing the affordable housing, for example through the developer's surplus income or public subsidy.
- 5.3** A key purpose of this SPD is to clarify, within the terms of Policy DM15, the Council's affordable housing requirements regarding the proportion of affordable housing sought on a site, and the expected mix of affordable dwellings (tenure, size and type).

10

#### The Proportion of Affordable Homes

- 5.4** On sites of 10 dwellings or more, the Council will require 50% of the units to be provided as affordable housing (with an acceptable mix in terms of size, type and tenure and compliance with required standards).
- 5.5** On sites of 5-10 units the Council will require the following:
- 5 units - 1 Affordable unit
  - 6 units - 1 Affordable unit
  - 7 units - 2 Affordable units
  - 8 units - 3 Affordable units
  - 9 units - 4 Affordable units
  - 10 units - 5 Affordable units
- 5.6** The affordable housing proportion should be calculated in relation to *gross* rather than *net* development, i.e. it should be based on the total number of units proposed in the final development.<sup>(5)</sup>
- 5.7** The London Plan suggests that boroughs should require a proportion of affordable housing on sites with a capacity of 10 or more units. However, in Kingston, the nature and size of the sites that come forward for redevelopment means that a 10 unit policy threshold captures very few sites. In 2008-2011 only 3 - 8% of the residential schemes given planning consent were for 10 or more units (and therefore expected to make a contribution towards the provision of affordable housing, in accordance with previous policy). A policy threshold of 5 units would have increased the proportion of schemes on which the Council could have sought affordable housing to 21%.

---

5 This approach is consistent with Paragraph 4.4.8 of the Mayor's Housing SPG (November 2012).

- 5.8** Where development is permitted on sites with a low 'existing use value', for example low-value employment land, the inclusion of a residential element on such sites can be of significant benefit to the developer or landowner. The additional benefit arising is a factor to be taken into account when determining the appropriate affordable housing requirement.

### The Mix of Affordable Homes

- 5.9** In terms of tenure, the Core Strategy states that 70% of the affordable dwellings should be social/affordable rented, with the remainder 30% being intermediate provision. Although the London Plan has a London-wide target that 60% of affordable housing is social rented and 40% is intermediate, local evidence suggests that the need in the Borough is for 75% social rented and 25% intermediate<sup>(6)</sup>. As such, the Council seeks a target between the two thresholds and will therefore seek to achieve the 70:30 split between social/affordable rented and intermediate provision. Within these tenures, the expected mix in terms of type (houses or flats) and size (number of bedrooms) is:

<b>Dwelling mix (size and type) by tenure*</b>	
<b>Social/Affordable rented provision</b>	
1 bed (2 persons)	29%
2 bed houses (4 persons)**	38%
3 bed houses (5/6 persons)**	26%
4 bed houses (7/8 persons)**	6%
5 bed houses (9/10 persons)**	2%
	100%
<b>Intermediate Provision</b>	
1 bed (2 persons)	75%
2 bed houses (3/4 but primarily 4 persons)**	18%
3 bed houses (5/6 persons)**	7%
	100%
* based on the priority applications on the Kingston's Housing Register at end March 2011	
** flats where considered appropriate by the Council	

- 5.10** The Council's approach is to seek to achieve this mix on every development site, except on sites capable of providing a higher proportion of family housing.

## 5 Determining the proportion and mix of affordable housing on a site

- 5.11** The council will seek the dwelling mix set out in the above table, and where sites cannot provide the required mix, the Council will work with the Registered Provider to secure a mix which both meets the needs of the Borough within the constraints of any new development site.
- 5.12** On small sites where 6 or fewer affordable units are being provided, it is unlikely to be practical to have a tenure mix of affordable rented and intermediate housing. On these sites, the Council will take into account the view of its partner Registered Providers in deciding whether to allow flexibility in its required tenure mix. In some situations it may be preferable to encourage provision of the affordable housing in a single tenure in the interests of simplifying management arrangements and ensuring affordability. Developers should approach the Council at an early stage in the application process for advice on the tenure mix to be provided.
- 5.13** In recent years the greatest challenge to achieving the expected dwelling mix has been the provision of affordable family housing<sup>(7)</sup>. The Council recognises that different sites will pose different design challenges in terms of providing family accommodation, especially on sites suited to developments of flats. However, even in blocks of flats, good quality family accommodation can be provided, for example, at ground floor level, with access to a private garden or private communal amenity space. It is crucial that well-designed family housing with access to private or communal gardens is 'designed-in' to achieve the expected dwelling mix on a site.
- 5.14** On sites that the Council considers to be particularly suitable for family housing, the Council may seek a proportion of affordable family housing above the requirement specified in Paragraph 5.9. If this has implications on viability (which must be demonstrated by a development appraisal), the Council may be willing to calculate the affordable housing requirement in terms of habitable rooms or floorspace.
- 5.15** **Applicants are advised to discuss their scheme with the Council at pre-application stage to agree the proportion and mix of affordable dwellings prior to submitting a planning application. The Council also encourages applicants to engage at an early stage with a Registered Provider.**

### Proposals that Depart from the Requirements of this SPD

- 5.16** The Council recognises that a number of factors can impact on the ability of a development to provide the expected proportion, tenure split and mix of affordable housing and comply with the affordable housing criteria. However, the Council will not accept an inflated land value as justification for a departure from the requirements of this SPD. The financial implications of complying with the affordable housing policy need to be factored into the land value when purchasing a site. If no regard is paid to these implications the resultant financial consequences will have to be borne by the developer.

---

7 Between 2009 – 2012 154 affordable units were built, of which 92 were 1 or 2-bed dwellings and 62 (40%) were 3+ bedroom dwellings. In the same period planning permission was granted for 133 affordable units, but only 40 (28%) of these were 3+ bedroom dwellings.

- 5.17** Development proposals that depart from the policy requirements of this SPD must be accompanied by a development appraisal. This applies to all residential and mixed-use developments that fall within the terms of Policy DM15. The appraisal will be necessary to justify any departure from the requirements of Policy DM15 and this SPD, and to determine the maximum reasonable proportion of affordable housing that can be provided.
- 5.18** A qualified professional with experience in the field of residential development should carry out the appraisal. The minimum information the Council would expect to be included in a basic development appraisal is set out in Annex 2. For all major development schemes the use of a recognised development appraisal toolkit is required, while for small schemes the Council proposes that the Kingston template be applied (as set out in Annex 3). All development appraisals will be subject to professional scrutiny by the Council, and (in the case of schemes of 10 or more units) by an independent third party with relevant expertise. This independent assessment is to be paid for by the applicant.
- 5.19** Where a scheme is referable to the Mayor of London<sup>(8)</sup> the applicant should provide an appraisal on a confidential basis to officers of the Greater London Authority (GLA).

### Other Benefits

- 5.20** The Council recognises that in addition to affordable housing there will often be other planning obligations necessary for development to take place, in accordance with other Core Strategy policies.
- 5.21** The Council's Planning Obligations Supplementary Planning Document (September 2011) emphasises the importance of affordable housing provision by stating that it is a London Plan and local priority.
- 5.22** The cost of meeting the requirements of DM15 and this SPD, along with other planning obligations, should be taken into account when acquiring an option or purchasing a development site. Where a developer considers that these requirements render a development unviable, this needs to be demonstrated with a development appraisal, following which the Council would determine the relative merits of the various planning obligations in choosing which to prioritise.

### Subsidy

- 5.23** In assessing the maximum reasonable amount of affordable housing, the availability of public subsidy will be taken into account in the development appraisal. However, there is no requirement that the Council, or the Greater London Authority via the Affordable Housing Programme, subsidises affordable housing delivered through the planning system. Consequently there should be no assumption that grant will be available when valuing potential development sites. It is the responsibility of the developer, through early discussions with the Council and one of its Partner Registered Providers, to assess its availability and the impacts upon a scheme with or without subsidy.

8 Referral criteria for planning applications of potential strategic importance are contained in the Town and Country (Mayor of London) Order 2008 Schedule of Categories.

### 6 Off-site provision and payments in-lieu

6.1 The Council's policy on off-site provision is set out at bullet 'e' of Policy DM15:

*“The Council will expect the provision of affordable housing to be on-site. In the exceptional circumstances when it can be justified that this would not be viable or practical, and provision cannot be made on an alternative site, then the Council may accept a contribution or commuted sum towards either delivery on an alternative site or other affordable housing initiatives.”*

#### Off-site provision

6.2 In the exceptional circumstances that off-site provision is considered, the Council must be convinced that:

- a. there are demonstrable benefits to be gained by providing the units in a different location, for example where on-site provision would be less satisfactory than a proposal for off-site provision in terms of the overriding objective to create mixed and balanced communities, or if it better enables a priority need to be met, e.g. affordable 3-bedroom or larger family houses.
- b. the affordable housing requirement generated by the proposal will actually provide affordable housing that would not otherwise be provided, within the same timescale as if provided on-site. In exceptional cases where the Council instead accepts a commuted sum in lieu of on-site or off-site affordable housing provision, payment should be made by the developer on commencement of the development so that it can be used promptly to develop the homes to a similar timetable.
- c. the affordable dwellings provided off-site are satisfactory in terms of location (proximity to the facilitating site), and the quality, quantity, tenure, size and type of dwellings are acceptable compared with what would have been expected on the facilitating site.
- d. the arrangements for off-site provision are financially neutral in terms of the benefit to the applicant relative to on-site provision. This can be demonstrated if necessary through an appropriate development appraisal.

#### Calculation of Payment in Lieu

6.3 Examples of when the Council may accept a payment in lieu include:

- where it regards the site as an unsuitable location for affordable housing or for family housing;
- on sites that have high sales values, the payment in lieu could be substantial and be used to provide more affordable housing on other sites than could have been provided on-site; and
- where the site is not capable of meeting Registered Provider design standards without seriously compromising scheme viability, resulting in no demand from Registered Providers and a threat to the deliverability of the development. This might be particularly relevant to developments that involve the conversion of listed

buildings, where the ability to meet sustainability requirements is fettered by conservation requirements.

- **Small Development Sites (5-9 units)**

- 6.4** The Council adopts an approach to negotiating off-site contributions that assists in determining both (a) the viable level of affordable housing that a small scheme can absorb and (b) the payment in lieu that would flow from this level.
- 6.5** The model template is set out in Annex 3 along with two worked examples. The detailed steps for the calculation are set out below, however to summarise, the model calculates the residual value of the scheme as 100% private and then a second residual is calculated, assuming an element of affordable housing. The second residual is based on the requirements of Policy DM15, i.e. requirements for 5-9 units. The model also makes provision for calculating the existing use value of the site by capitalising a rent, less rent free period and purchaser's costs. A premium is added to the existing use value to reflect in incentive required by landowners to release the site for development. The two residual land values (with and without on-site affordable housing) are then compared to the existing use value benchmark. If the residual land value of the scheme with affordable housing equals or exceeds the existing use value, then a payment in lieu is calculated.
- 6.6** In situations where a scheme that meets the Council's affordable housing target would be unviable, the affordable housing percentage would be adjusted downwards until the scheme becomes viable.

### **Determination of Viability and Calculation of Payment in Lieu**

*Please see Annex 3 for worked examples.*

#### **Step 1:**

Enter a description of unit types, number of beds per unit, predicted sales values in the "Scheme Income" table.

Enter any car parking revenue per unit, ground rents, yield to be applied to ground rents and calculate the capital value of the yield (1 divided by the yield multiplied by annual ground rent). So if the annual ground rent is £200 and the yield is 7%, the capital value would be:  $1 \text{ divided by } 7\% = 14.28$ , multiplied by £200 = £2,857.

Calculate the Gross Development Value by adding the predicted sales values to the car parking revenue and capitalised ground rents.

#### **Step 2:**

Enter the policy compliant levels of affordable housing in the box under 'policy compliant affordable housing', having regard to Policy DM15. The appropriate affordable housing tenure should be agreed with Registered Providers.

Enter the average private sales value and the average affordable housing value in the two boxes immediately below. (These input values should reflect local circumstances, i.e. market values should be informed by comparable current market values in the locality, and affordable housing values should be confirmed following consultation with a partner Registered Provider.) Using these average values, calculate the Gross Development Value of a scheme incorporating affordable housing.

### Step 3:

Enter scheme costs (build costs, demolition and site preparation, Section 106 costs, marketing costs etc) and add these costs to determine total development costs.

Costs should be calculated separately for the scheme with affordable housing and the 100% private housing scheme.

### Step 4:

Calculate the net residual land values by deducting all scheme costs from the Gross Development Value for both schemes.

### Step 5:

Calculate the payment in lieu by deducting the residual land value of the scheme incorporating affordable housing (labelled B) from the 100% private housing scheme (labelled A).

If the residual land value of the scheme with affordable housing is lower than the site's existing use value, re-run the steps above with a reduced level of affordable housing.

- **Major Development Schemes (10 units and above)**

**6.7** A similar approach to assessing viability and payments in lieu should be used, as for small sites, whereby two appraisals of the scheme should be run; one with on-site affordable and one without, and deducting the residual value generated by the latter from the former. Guidance on development appraisal criteria is set out in Annex 2, which also recommends toolkits to be used to appraise major developments.

- **Student Housing Schemes**

**6.8** Student housing developments often differ from general residential in that they are configured as cluster flats with shared living areas, therefore the approach to calculate payments in lieu is as follows:

**Student housing schemes are valued by capitalising the net rent income (i.e. gross rents received from tenants, less management and maintenance costs) and deducting the costs of development (build costs, professional fees, finance and land value).**

**Step 1: Calculating an equivalent volume of units for payment in lieu calculations**

The requirement is to be based on a proportion of total floor area, excluding common areas (bars, receptions etc). The affordable housing proportion would then apply only to living space (i.e. bedrooms and kitchen/dining rooms) and would have an equivalence with residential floorspace in a general residential scheme.

For example, a student housing scheme might be comprised of 100 student rooms, arranged as 4 bed cluster flats, each with a kitchen/living area. Each cluster flat has 5 habitable rooms, so the total is 500 habitable rooms. The Council would seek to base its affordable housing requirement on a percentage of habitable rooms - this percentage would be at a level, tested as part of the development appraisal, to ensure scheme viability.

**Step 2: Calculating a payment in lieu of on-site affordable housing**

The developer would calculate the capital value of each room. This valuation would be based on the gross rental income from the room, less an appropriate allowance for management and maintenance costs.

The capital value per room would be compared to the equivalent affordable housing payment that an Registered Provider could make.

The payment in lieu would be based on the capital value of a student housing room, less the value of an affordable housing habitable room, applied to the percentage of habitable rooms required to be provided as affordable.

**6.9** In the event that the applicant cannot identify a site for contributions to be spent the Council will collect monies and contributions will be ring-fenced to secure efficient delivery of new affordable housing through (but not limited to) the following:

- delivery of conventional new affordable housing
- estate regeneration
- bringing long term vacant properties back into use
- cash incentive schemes (such as Grants to Move)
- acquisition of existing properties

**Maximising Provision in Major Schemes**

**6.10** The Mayor of London provides guidance to local planning authorities on maximising the affordable housing provision associated with developments. The London Plan (2011) para. 3.75 states that “to take account of economic uncertainties, and in respect of schemes presently anticipated to deliver low levels of affordable housing... provisions may be used to ensure that maximum public benefit is secured over the period of the development”, while the Mayor’s Housing SPG (2012) states that “In projects being developed in phases it may be necessary to reach separate agreements on grant and affordable housing outturn on different phases.” (Para. 4.4.39). Therefore, in order to meet its affordable housing targets the Council will maximise its opportunities for affordable housing in the following ways:

## 6 Off-site provision and payments in-lieu

- For large, long-term, phased developments the Council will require re-appraising of the scheme as each development phase is approached. This will take account of changes in the economic climate and ensure the most appropriate level of affordable housing is achieved from the development overall.
- Any applications which are re-submitted by means of extension of time or renewal of the planning permission will be subject to the requirements of Policy DM15 and this SPD. The negotiation process will re-start on re-submission.
- Large scheme proposals will be subject to a 'baseline' level of affordable housing requirements. This will ensure that, in the event of any re-submission of the proposal, the level of affordable housing cannot be negotiated below the 'baseline'.

## 7 Pre-application discussions

**7.1** This SPD seeks to provide greater certainty and clarity for all parties involved in the delivery of affordable housing through the planning system. However, it cannot replace the need for discussions between the Council and applicants before a planning application is submitted. Potential applicants are urged to provide as much information as possible on the following issues (including liaising with one of the Council's partner Registered Providers) and to agree them with the Council at an early stage:

- i. The proportion of homes in the development to be made affordable, and the precise number of affordable units on the scheme
- ii. The split between affordable rented and intermediate provision
- iii. For each form of tenure (affordable rented and intermediate), the numbers of dwellings of different sizes (in terms of number of bedrooms and persons)
- iv. For each form of tenure, the number and mix of affordable wheelchair units to be provided
- v. The 'weekly cost to occupier' of the proposed affordable units, including realistic and affordable service charges
- vi. The mechanism for ensuring affordability, for example via Registered Provider management

**7.2** For more information on the Council's Pre-application Advice service please visit the Council's website at: [www.kingston.gov.uk/preapp](http://www.kingston.gov.uk/preapp)

### Partner Registered Providers

**7.3** The Council has established good relationships with a number of Partner Registered Providers (known as 'Partner RPs') that operate effectively in partnership with the Council to provide affordable housing that meets local housing need. As such, the Council encourages developers to meet their affordable housing obligations by forming a partnership with one of the Council's Partner Registered Providers following discussion with Housing Services. Applicants should contact the Council for an up-to-date list of Partner Registered Providers and advice on which Registered Provider would be most appropriate for their development.

**7.4** Registered Providers need to manage the affordable homes built on mixed tenure sites effectively. The Borough has confirmed partnership arrangements with developing Registered Providers on the basis of a range of criteria including an existing local presence and, expertise in managing social/affordable rented tenancies and those living in intermediate housing. These Registered Providers have also entered into legal agreements with the Council to ensure that the Council is able to address its duty to provide housing for households in local housing need. In some cases, links have already been achieved between individual Registered Providers and specific sites or investment opportunities.

**7.5** In addition, Partner Registered Providers will receive the Council's support in bidding for GLA funding towards the costs of the affordable housing delivered on new developments. If other Registered Providers are engaged instead, then it is unlikely that the developer will be able to maximise the provision of affordable housing and meet

the Council's affordable housing requirements. The selection by a developer of a non-partner Registered Provider contrary to the Council's advice will not justify a reduction in the quantity or quality of affordable housing.

- 7.6** It is recognised that the provision of affordable housing through a Partner Registered Provider is not the only means of provision. Developers who are confirmed as providers of affordable housing in the Affordable Housing Programme 2011-2015 have been allocated grant funding to deliver new affordable housing in Greater London. Where a developer has achieved this status and does not propose to develop in association with a Partner Registered Provider, a legal agreement will be used to ensure affordability levels and to control occupancy to those in need of affordable housing, both at initial and subsequent lettings or sales.

## Annex 1: Core Strategy Policy DM15 and Supporting Text

### Policy DM15 Affordable Housing

The delivery of affordable housing is a key priority and the Council will seek to maximise its provision. To achieve this the Council will work with partners to:

a. seek to deliver at least 2,000 new affordable housing units over the period 2012/13 to 2026/27

b. explore all opportunities to deliver new affordable units as part of new residential developments and encourage applications for 100% affordable schemes

c. expect developments of 5 or more units, or sites capable of delivering 5 or more units, to provide the maximum reasonable amount of affordable housing, subject to viability considerations

- On sites of 10 or more units require 50% of the units to be provided as affordable housing
- On sites of 5-10 units require the following:
  - 5 units (1 Affordable unit)
  - 6 units (1 Affordable unit)
  - 7 units (2 Affordable units)
  - 8 units (3 Affordable units)
  - 9 units (4 Affordable units)
  - 10 units (5 Affordable units)
- Proposals departing from these requirements will be expected to justify any lower provision through the submission of a financial appraisal

d. within the affordable housing element of new developments seek to achieve a 70:30 tenure split between Social/Affordable Rent and Intermediate provision

e. expect the provision of affordable housing to be on-site. In the exceptional circumstances when it can be justified that this would not be viable or practical, and provision cannot be made on an alternative site, then the Council may accept a contribution or commuted sum towards either delivery on an alternative site or other affordable housing initiatives.

6.105 The Council has produced a Strategic Housing Market Assessment (SHMA) which indicates that there is a significant need to increase the provision of affordable housing in the Borough. This is supported by an Affordable Housing Viability Study (AHVS).

6.106 Given the level of need identified in the SHMA, the Council wants to maximise the delivery of new affordable homes. This is clearly set out in the Kingston Plan (the Borough's Community Plan).

6.107 The London Plan and Planning Policy Statement 3: Housing (PPS3), require boroughs to plan for the provision of affordable housing. The London Plan suggests that boroughs should require a proportion of affordable housing on sites with a capacity of 10 or more units. However, in Kingston, the nature and size of the sites that come forward for redevelopment means that a 10 unit policy threshold captures very few sites. In 2008/09 only 4% of the residential schemes given planning consent were for 10 or more units (and therefore expected to make a contribution towards the provision of affordable housing). A policy threshold of 5 units, would have increased the proportion of schemes on which the Council could have sought affordable housing to 21%.

6.108 On all sites with a capacity of 5 or more units, the Council will expect applicants to demonstrate (through an appraisal process) that any new development is maximising the provision of affordable housing of the type and size to meet identified need. Furthermore, the Council will seek to maximise the provision of affordable housing on publicly owned land. The Council's Affordable Housing Viability Study supports this approach.

6.109 The Council will produce a Supplementary Planning Document (SPD) to support the implementation of this policy.

## Annex 2: Development Appraisal Criteria

Paragraph 5.24 of this SPD states development proposals that depart from the requirements of this SPD must be accompanied by a development appraisal. This applies to all residential and mixed-use developments that fall within the terms of Policy DM15, including for sites of 5-10 units. The appraisal will be necessary to justify any departure from the requirements of Policy DM15 and this SPD (“the Policy”), and to determine the maximum reasonable proportion of affordable housing that can be provided.

If an appraisal is to be accepted as justifying a departure from the Policy, it would need to demonstrate that:

- A. the value of the application site on the basis of a development which is wholly in accordance with the Policy and which reflects an explicit level of profit that a developer would require in order to induce that person to undertake the development  
  - is lower than
- B. the value of the application site if it remained in its existing use(s) or was developed for a purpose that did not require the inclusion of affordable housing  
  - and that in this context, the amount of affordable housing being proposed by an applicant is the maximum reasonable proportion that can be provided.

In seeking to demonstrate this, an appraisal should:

- i. calculate the value of the application site on the basis of:
  - a. a development that is wholly in accordance with the Policy; and
  - b. the development being proposed by the applicant that would be a departure from the Policy
- ii. compare those values with the value of the application site if it remained in its existing use(s) or was to be developed for a purpose that did not require the inclusion of affordable housing
- iii. include only such supporting information or evidence as is reasonably required to enable a proper consideration of the appraisal submitted
- iv. include valuations that reflect market conditions current at the time of the relevant planning application or pre-application discussions (as appropriate)

An appraisal which considers financial viability in any other way is likely to be acceptable only if there are special circumstances relating to the site or the proposed development that would justify such an alternative approach.

Although it is for the applicant to decide what format an appraisal is to take, it should be one that clearly, effectively and simply demonstrates how the above values have been calculated, and a transparent, straightforward and perhaps traditional method of valuation is likely to be considered most helpful.

Examples of currently available toolkits are as follows:

- **Homes and Communities Agency Development Appraisal Tool**

The tool is an 'open source' cash flow model which can model affordable or mixed tenure housing development, with scope to capture ancillary commercial uses. Based on a series of assumptions about costs, values and reasonable profit, the model calculates the surplus or deficit created by a given scheme. It also allows estimation of the level of affordable housing and other s106 requirements that can be supported by a scheme.

The model is a 'gap funding' tool in that land value and reasonable developer's profit can be treated as inputs and the deficit or surplus arising from a given scheme is an output.

The model is based on the principle that a viability appraisal is taken at a point in time, taking account of values and costs at that date.

- **Greater London Authority (Three Dragons) Toolkit**

The GLA Toolkit provides the user with an assessment of the economics of residential development. It allows the user to test the economic implications of different types and amounts of planning obligation and, in particular, the amount and mix of affordable housing. It uses a residual development appraisal approach which is the normally accepted approach in valuation practice.

The Toolkit compares the potential revenue from a site with the potential costs of development before a payment for land is made. In estimating the potential revenue, the income from selling dwellings in the market and the income from producing specific forms of affordable housing are considered. The estimates involve (1) assumptions about how the development process and the subsidy system operate and (2) assumptions about the values for specific inputs such as house prices and building costs.

The main output of the Toolkit is the residual value.

*Both the HCA and GLA toolkits are best suited to single phase residential schemes.*

- **Royal Borough of Kingston Template**

This template has been devised to enable the assessment of small scale developments and to assist with negotiations surrounding off site contributions in lieu of affordable housing. See Annex 3 for more guidance.

- **Argus Developer**

ARGUS Developer combines development appraisal capability with sensitivity analysis. It allows for flexible inputs such as capitalised rental income, discounted cash flow to calculate Internal Rate of Return and Net Present Value and phased development costs. This model is therefore particularly suited to larger schemes and commercial or mixed-use development.

Further guidance on undertaking viability assessments can be found in the RICS guidance note 'Financial viability in planning' (August 2012).

The price paid, or agreed to be paid, for a site will be regarded as of little relevance, unless it can be demonstrated that it fully reflects all relevant planning policies and requirements as at the date of the appraisal submitted.

Valuations and associated opinions included in an appraisal should be from suitably qualified and experienced persons.

Values relating to affordable housing that are included in an appraisal will be given most weight only where those values are based on discussions the applicant has had with one or more of the Registered Providers approved by the Council, as Housing Authority.

All development appraisals will be subject to professional scrutiny by the Council, and (in the case of schemes of 10 or more units) by an independent third party with relevant expertise. This independent assessment is to be paid for by the applicant.

## Annex 3: Small Sites - Determination of Viability and Calculation of Payment in Lieu

### Step 1:

Enter a description of unit types, number of beds per unit, predicted sales values in the "Scheme Income" table.

Enter any car parking revenue per unit, ground rents, yield to be applied to ground rents and calculate the capital value of the yield (1 divided by the yield multiplied by annual ground rent). So if the annual ground rent is £200 and the yield is 7%, the capital value would be (1 divided by 7% = 14.28, multiplied by £200 = £2,857).

Calculate the Gross Development Value by adding the predicted sales values to the car parking revenue and capitalised ground rents.

### Step 2:

Enter the policy compliant levels of affordable housing in the box under 'policy compliant affordable housing', having regard to Policy DM15. The appropriate affordable housing tenure should be agreed with Registered Providers.

Enter the average private sales value and the average affordable housing value in the two boxes immediately below. (These input values should reflect local circumstances, i.e. market values should be informed by comparable current market values in the locality, and affordable housing values should be confirmed following consultation with a partner Registered Provider.) Using these average values, calculate the Gross Development Value of a scheme incorporating affordable housing.

### Step 3:

Enter scheme costs (build costs, demolition and site preparation, Section 106 costs, marketing costs etc) and add these costs to determine total development costs.

Costs should be calculated separately for the scheme with affordable housing and the 100% private housing scheme.

### Step 4:

Calculate the net residual land values by deducting all scheme costs from the Gross Development Value for both schemes.

### Step 5:

Calculate the payment in lieu by deducting the residual land value of the scheme incorporating affordable housing (labelled B) from the 100% private housing scheme (labelled A).

If the residual land value of the scheme with affordable housing is lower than the site's existing use value, re-run the steps above with a reduced level of affordable housing.

### Example 1: Scheme meeting full 4 units affordable housing contribution on a scheme of 9 units

ROYAL BOROUGH OF KINGSTON											
SMALL SITES AFFORDABLE HOUSING CONTRIBUTION - VIABILITY TEST											
Scheme address:											
		Policy compliant affordable housing		Private		5.04		Affordable		3.96	44.0%
Scheme income											
Scheme mix											
Unit type	No of beds	Floor area (sq ft)	Predicted sales value	Car Parking revenue per unit	Ground rent per annum	Yield	Capitalised ground rent				
Unit 1	House	4	950	£425,000	£0	£0.00	5%	£0			
Unit 2	House	4	975	£425,000	£0	£0.00	5%	£0			
Unit 3	Flat	1	500	£215,000	£0	£250.00	5%	£5,000			
Unit 4	Flat	1	500	£215,000	£0	£250.00	5%	£5,000			
Unit 5	Flat	2	750	£295,000	£0	£0.00	5%	£0			
Unit 6	Flat	2	750	£275,000	£0	£0.00	5%	£0			
Unit 7	Flat	2	750	£275,000	£0	£0.00	5%	£0			
Unit 8	Flat	2	750	£275,000	£0	£0.00	5%	£0			
Unit 9	Flat	2	750	£275,000	£0	£0.00	5%	£0			
Unit 10	Flat						5%	£0			
Sub-total				6675	£2,675,000			£10,000			
<b>Gross Development Value</b>										<b>£1,816,385</b>	

## Example 1 (Continued)

<b>Scheme costs</b>	Build costs				£934,500	£934,500
	Demolition and site prep				£33,375	£33,375
	Professional fees	8.00%			£74,760	£74,760
	Section 106				£15,000	£15,000
	Marketing (% of GDV)	3.00%			£80,550.00	£45,240.00
	Developer's profit on private	20.00%			£537,000.00	£301,600.00
	Developer's profit on AH	6.00%			n/a	£18,503.10
	Finance on build	7.00%			£37,017.23	£37,017.23
	<b>Residual land value</b>				<b>£972,798</b>	<b>£356,390</b>
	Finance on land	7.00%			£68,096	£24,947
					<b>£904,702</b>	<b>£331,442</b>
<b>Existing use value</b>					<b>£372,793</b>	<b>£372,793</b>
	Description of existing buildings on site:				<b>Viable</b>	<b>Not viable</b>
	Secondary office					<b>Payment in lieu</b>
						<b>n/a</b>
	Floor area of building (sq ft)	3,000				
	Type of building	Office				
	Rent per sq ft					
	Area 1	£12.00		£36,000		
	Yield	8.50%				
	Rent free period (years)	2.0		0.8495		
	Capital Value	£359,769				
	Purchaser's costs	5.80%		£20,867		
	Landowner premium	10%				

## Example 2: Adjusted affordable housing level to achieve viable scheme

ROYAL BOROUGH OF KINGSTON									
SMALL SITES AFFORDABLE HOUSING CONTRIBUTION - VIABILITY TEST									
Scheme address:									
		Private		Affordable		Policy compliant affordable housing		40.8%	
		5.33		3.67					
Scheme income									
Scheme mix									
Unit type	No of beds	Floor area (sq ft)	Predicted sales value	Car Parking revenue per unit	Ground rent per annum	Yield	Capitalised ground rent		
Unit 1	House	4	£425,000	£0	£0.00	5%	£0		
Unit 2	House	4	£425,000	£0	£0.00	5%	£0		
Unit 3	Flat	1	£215,000	£0	£250.00	5%	£5,000		
Unit 4	Flat	1	£215,000	£0	£250.00	5%	£5,000		
Unit 5	Flat	2	£295,000	£0	£0.00	5%	£0		
Unit 6	Flat	2	£275,000	£0	£0.00	5%	£0		
Unit 7	Flat	2	£275,000	£0	£0.00	5%	£0		
Unit 8	Flat	2	£275,000	£0	£0.00	5%	£0		
Unit 9	Flat	2	£275,000	£0	£0.00	5%	£0		
Unit 10	Flat					5%	£0		
Sub-total			6675	£2,675,000			£10,000		
<b>Gross Development Value</b>							<b>£2,685,000</b>		
							<b>£1,879,040</b>		

Average private sales value (per sq ft) £400.75

Average affordable hsg value (per sq ft) £105.00

Policy compliant scheme GDV (private) £1,582,899.87

Policy compliant scheme GDV (affordable) £286,140.44

Ground rent income £0

Car parking income £10,000



# Kingston Blank Template

ROYAL BOROUGH OF KINGSTON SMALL SITES AFFORDABLE HOUSING CONTRIBUTION - VIABILITY TEST									
Scheme address:									
		Policy compliant affordable housing							
		Private	Affordable						
Scheme mix									
Scheme income		Floor area (sq ft)	Predicted sales value	Car Parking revenue per unit	Ground rent per annum	Yield	Capitalised ground rent		
Unit type	No of beds								
Unit 1	House								
Unit 2	House								
Unit 3	Flat								
Unit 4	Flat								
Unit 5	Flat								
Unit 6	Flat								
Unit 7	Flat								
Unit 8	Flat								
Unit 9	Flat								
Unit 10	Flat								
Sub-total			£				£		
<b>Gross Development Value</b>								<b>£</b>	

Policy compliant affordable housing

Private

Affordable

Average private sales value (per sq ft)

Average affordable hsg value (per sq ft)

Policy compliant scheme GDV (private)

Policy compliant scheme GDV (affordable)

Ground rent income

Car parking income

£

£

£





- b. "Affordable Housing Units" means the [specify number] units [(specify size tenure and type of units)] [for Social Rent]/Affordable Rent/[Intermediate Housing] together with the associated car parking
- c. "Affordable Rent/Affordable Rented" means rented housing provided by registered providers of social housing, that has the same characteristics as social rented housing except that it is outside the national rent regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 per cent of local market rents
- d. "the Application Site" means [address/description]
- e. "Associated Car Parking" means [specify number] parking spaces within the Development the allocation of which to be agreed in writing beforehand by the Council's Head of Housing
- f. "Blue Badge" means a badge issued by a local authority under the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) for display on a motor vehicle driven by a disabled person and includes a replacement badge issued in accordance with the said regulations
- g. "Blue Badge Holder" in relation to a Blue Badge means the individual to whom a disabled person's badge was issued
- h. "Development" means the development approved by the Council under local planning authority reference [ ] (subject to this Deed being entered into beforehand)
- i. "Code for Sustainable Homes level 4 (\*\*\*\*)" means performance measure stipulated for the sustainability core performance standard
- j. "General Market Units" means the residential units comprised within the Development other than the Affordable Housing Units
- k. "Greater London Authority (Housing and Land Directorate)" ("GLA") means the public body created by the Localism Act 2011 to fund Registered Providers in Greater London whose headquarters are at City Hall The Queen's Walk London SE1 2AA
- l. "the Homes and Communities Agency" means the public body set up to fund and regulate Registered Providers in England whose headquarters are at Maple House 149 Tottenham Court Road London W1T 7BN
- m. "Intermediate Housing" means affordable housing where the cost to the occupier in terms of weekly outgoings (rent service charges and mortgage where applicable) are significantly below the maximum affordable to households (as set out in the Council's Supplementary Planning Document "Affordable Housing") who are in local housing need (including Key Workers)
- n. "Lifetime Home Standards" means the standards contained in the Supplementary Guidance to the London Plan 'Accessible London: achieving an inclusive environment'

- o. "Local Management Presence" means having Affordable Housing stock in Royal Borough of Kingston upon Thames with nomination arrangements with the Council
- p. "The Mayor's Housing Supplementary Planning Guidance" means the current edition (or as amended or replaced)
- q. "New Build HomeBuy" also known as "Shared Ownership" means a shared equity scheme provided by a Registered Social Landlord which allows a purchaser to buy a share of the property (of at least 25%) and which property is held on a formal shared equity lease which accords with the Homes and Communities Agency lease requirements (to ensure that leases are mortgageable) for persons who have an Intermediate Housing need
- r. "Plan" means the plan annexed hereto
- s. "Planning Permission" means the grant of planning permission for the Development and the subsequent approval of details pursuant to such planning permission (and any subsequent section 73 planning permission under the 1990 Act)
- t. "Registered Provider/RP" means a Housing Association or other organisation registered with the Homes and Communities Agency under the Housing and Regeneration Act 2008 as a Social Landlord (as defined in section 1 of the Housing Act 1996 to be approved in writing by the Council beforehand) having a Local Management Presence
- u. "Unconditional Date" means the date to be ascertained in accordance with the provisions of clause 4 of this Deed upon which date this Deed shall become unconditional and have full effect
- v. "Wheelchair Housing" means the units comprised within the Development specifically designed to meet the needs of wheelchair users (being [identify units])
- w. "Wheelchair Housing Design Standards" means the standards contained in the Wheelchair Housing Design Guide 2006 (or as amended) or replaced
- x. Any reference to a statute (whether specifically named or not) shall include any amendment or re-enactment of such statute for the time being in force and all instruments thereunder
- y. The expressions "the Council" and "the Company" and shall include their respective successors in title and assigns or persons otherwise deriving a legal interest in the Application Site from them as shall any reference to any person company trust body or association
- z. Where any party comprises more than one person the obligations and liability of that party under this Deed shall be joint and several obligations and liability of those persons
  - aa. Words importing one gender shall be construed as importing another gender
  - bb. Words importing the singular shall be construed as importing the plural and vice versa
- 2. This Deed is made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) and all other powers enabling the Council to enter into this Deed

3. The obligations on the part of the Company contained in the Schedule to this Deed are planning obligations for the purposes of section 106 of the 1990 Act and enforceable by the Council
4. This Deed is conditional and shall only have effect after -
  - a. the date upon which the Council grants the Planning Permission and
  - b. the date upon which works to begin the Development by the carrying out of a material operation (as defined in section 56 of the 1990 Act) occur but excluding demolition decontamination works (if any) site clearance and the erection of fences and hoardings (“the commencement”) unless otherwise stated in this Deed
5. No person shall be liable for any breach of the terms of this Deed after he shall have parted with all interest in the Application Site or the part in respect of which such breach occurred but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest
6. The Company hereby undertakes with the Council that the Application Site shall be subject to the restrictions and provisions specified in the Schedule hereto from the Unconditional Date (unless otherwise stated)
7. The Company hereby undertakes to pay taxes or duties (if any) at the rate for the time being in force chargeable in respect of this Deed upon delivery of a valid VAT invoice
8. The Company hereby undertakes to pay the Council’s legal costs not exceeding £[ ] (plus VAT) in connection with the preparation and completion of this Deed
9. (a) Any notice or other written communication to be served or given by the parties to this Deed shall be served or given by the parties to this Deed at the addresses specified for them at the beginning of this Deed or as otherwise notified in writing for this purpose
  - a. The Company undertakes to give notice in writing of the commencement of the Development to the Council forthwith after such commencement
10. (a) The Council shall not be fettered in the exercise of its statutory duties or discretion as local planning highway or local housing authority by this Deed
  - (b) This Deed shall not dispense with the need on the part of the Company to obtain any necessary consent or licence from the Council or any relevant third party landowner or body
11. Quick Disputes Procedure -
  - 11.1 For the purpose of this clause:-
    - a. “Quick Dispute” means a dispute issue difference question or claim as between the Council and the Developer relating to or arising out the Schedule hereto concerning the Affordable Housing or Service Charge provisions
    - b. “Party” means a party to the Quick Dispute
    - c. Without prejudice to clause 11 either party may give to the other notice (“Quick Dispute Notice”) requiring a Quick Dispute to be referred to an independent expert (“Independent Expert”)
  - 11.2 The Independent Expert shall act as an independent expert and not as an arbitrator and -



## SCHEDULE

### (Planning Obligations)

THE COMPANY HEREBY COVENANTS by way of planning obligations with the Council as follows:-

#### Affordable Housing

1. To construct or procure the construction of the Affordable Housing Units to the standard required (insofar as practicable) of new and refurbished buildings (as appropriate) by the GLA for grant eligibility; such standards shall include (where applicable) the London Housing Design Guide and the Code for Sustainable Homes level 4 (\*\*\*\*) (minimum) so that the Affordable Housing Units are ready for occupation as Affordable Housing by persons nominated by the Council.
2. Not to Commence Development until contracts have been exchanged with the Council approved Registered Provider to take receipt of the completed Affordable Housing Units to and (if flats) lease the Affordable Housing Units (which lease shall (amongst other things) be for a term of not less than 125 years at a peppercorn rent save that where Shared Ownership (Intermediate) units have been staircased to 100% and no longer form part of the Affordable Housing Units then the lease may provide for a ground rent to be paid for those particular units
3. Not to Occupy or permit the Occupation of any of the General Market Units until the Affordable Housing Units have been completed, are ready for Occupation and the freehold or long leasehold title to each transferred to a Registered Provider with all appurtenant and necessary rights
4. Not to Occupy or permit the Occupation of the General Market Units until the Council's Head of Planning and Transport has been notified in writing which Registered Provider has ownership and control of the Affordable Housing Units.
5. To ensure in the legal documentation effecting the sale (or other disposition) of the Affordable Housing Units to the Registered Provider that there is an effectual legal obligation not to use or cause to be used the Affordable Housing Units otherwise than for Affordable Housing which bind successors.

PROVIDED THAT this clause shall -

- not bind any mortgagee of the RP or any receiver or manager appointed pursuant to the Law of Property Act 1925 and
- cease to apply to any of the Affordable Housing Units which are transferred to any mortgagee of the RP or any receiver or manager appointed pursuant to the Law and Property Act 1925
- cease to apply to any of the Affordable Housing Units where the RP shall be required to dispose of that unit pursuant to a right to buy under Part V of the Housing Act 1985 or Section 16 of the Housing Act 1996 or any similar or substitute right applicable

6. In the disposition of the Intermediate Housing Units to ensure that there is an effectual legal obligation to carry on the approved Intermediate Housing scheme (subject to any statutory right to buy 100% of the equity) and;
7. That the said provisions and restrictions shall cease to apply to any person holding a lease of a Shared Ownership (Intermediate) unit from time to time in the event that such person by exercising any statutory right to staircase or redeem acquires 100% of his landlord's interest in the Shared Ownership (Intermediate) unit or to any person deriving title through or under such person or to any mortgagee of such person.
8. In the disposition of the Intermediate Housing Units no interest shall be retained by the Company by way of equity sharing arrangements in such Units
9. To use the same RP as the provider of all the Affordable Housing to be provided pursuant to this Deed unless otherwise agreed in writing by the Council beforehand.

### **Service Charge Provisions**

10. The service charges relating to the cost of maintaining the Affordable Housing Units shall be set at a level to be agreed with the RP beforehand having regard to comparable local charges set by the partner RP or any RP with a Local Management Presence for the provision of the same or similar amenities within the Royal Borough of Kingston upon Thames

### **Wheelchair Housing**

11. To construct or procure the construction of the Wheelchair Housing to the standard required (insofar as practicable) of new and refurbished buildings (as appropriate).

### **Marketing of the Wheelchair Housing**

12.
  - a. No marketing of any of the General Market Units hereby permitted shall take place until a scheme for the marketing of the Wheelchair Housing has been submitted to and approved in writing by the local planning authority
  - b. The scheme for the marketing of the Wheelchair Housing referred to in (a) above shall be for a minimum period of six months (starting with the first marketing of the other General Market Units comprised in the proposed development) and shall include details of the proposed advertising in special publications (as recommended by the Council's Access Officer) and the 'Web'
  - c. During the six month marketing period mentioned in (b) above not to sell any of the wheelchair housing units to persons other than wheelchair users (unless agreed in writing by the local planning authority beforehand)
  - d.
    - i. Within 14 days of the end of the six month marketing period mentioned in (b) above to provide evidence in writing to the local planning authority to demonstrate that the approved scheme for the marketing of the wheelchair housing has been fully complied with
    - ii. To record the number of Wheelchair Housing units sold to wheelchair users

And

- iii. To send that recorded information on sales to the Council’s Access Officer within 14 days following the expiry of the six month marketing period referred to in (b) above

**Blue Badge Parking Spaces**

13.

- a. Not to sell or otherwise dispose of the Blue Badge parking spaces to an individual owner or occupier of any of the units comprised within the Development (including for the avoidance of doubt owners or occupiers of the Wheelchair Housing units)
- b. The Blue Badge parking spaces shall be made available in accordance with a scheme to be agreed in writing by the Council beforehand which gives priority parking to Blue Badge Holders.

**Monitoring of Obligations**

- 14. If requested by the Council to supply to the Council (without cost) a copy of the documents relating to the Affordable Housing/Wheelchair Housing and the Blue Badge parking spaces provisions evidencing compliance with the requirements of this Deed.
- 15. To allow access to the Development at reasonable times and on reasonable prior notice for the purpose of monitoring the obligations relating to Affordable Housing/Wheelchair Housing and the Blue Badge parking spaces and restrictions thereto contained in this Deed

40

DATED 201

(1) [ ]

(2) THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KINGSTON UPON THAMES

Planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to [

]

LPA reference: [ ]

Department of Legal Services  
Royal Borough of Kingston upon Thames  
Guildhall  
Kingston upon Thames  
Surrey KT1 1EU

Ref: CAC/[ ]

Telephone: 020 8547 5102

## Annex 5: Glossary

The following definitions will help when reading this document. The terms in *italics* are explained elsewhere in the definitions.

Term	Explanation
Affordable Housing	<b><i>Social rented, affordable rented</i></b> and <b><i>intermediate housing</i></b> , 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.
Affordability Criteria	The criteria by which the Council determines the 'affordability' of a scheme. The criteria are based on cost to occupier and in addition to standard monthly outgoings (rent etc), takes into account additional cost such as <b><i>service charges</i></b> and ground rent, if applicable, but expected to be at a <b><i>peppercorn</i></b> .
Affordable Rent	Housing let by Local Authorities or <b><i>Registered Providers</i></b> to households who are eligible for <b><i>social rented housing</i></b> . Affordable Rent is subject to rent control that requires a rent of no more than 80% of the local market rent (including <b><i>service charges</i></b> , where applicable).
Blue Badge	A badge issued by a local authority under the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) for display on a motor vehicle driven by a disabled person and includes a replacement badge issued in accordance with these regulations
Development Appraisal/ Financial Appraisal	An appraisal of the viability of a housing scheme and the sensitivity of providing the required amount of <b><i>affordable housing</i></b> , and identifying the maximum reasonable amount of <b><i>affordable housing</i></b> to be provided. The development appraisal will be required to be an open book assessment, and will include standard assumptions about land values and profit margins. Such appraisals should be carried out by a professional with experience in the field of residential development.
Extra Care Housing	The provision of similar accommodation to <b><i>sheltered housing</i></b> in that residents each have their own front door and a warden provides housing-related support. In addition to this, social care services like home care are also available enabling older people to stay in their own rented homes until they become so frail that they need to go into a nursing home.
Facilitating Site	The site facilitating the <b><i>off-site provision of affordable housing</i></b> . This is the development site on which it is agreed by both the Council and the developer that affordable housing should be developed elsewhere (the <b><i>host site</i></b> ).

Term	Explanation
Financial Appraisal	See Development Appraisal.
Greater London Authority (Housing and Land)/GLA	The housing and regeneration agency for Greater London providing investment for new <b>affordable housing</b> and to improve existing social housing, as well as for regenerating land in Greater London.
Host Site	The site hosting the <b>off-site provision</b> of <b>affordable housing</b> . This is the development site receiving the <b>affordable housing</b> once it is agreed by both the Council and the developer that <b>affordable housing</b> should be developed <b>off-site</b> (i.e. not the <b>facilitating site</b> ).
Homes & Communities Agency (HCA)	The Homes and Communities Agency is the national housing and regeneration agency for England, providing investment for new <b>affordable housing</b> and to improve existing social housing, as well as for regenerating land. Also the regulator for social housing providers in England.
Housing for Intermediate Rent	Defined as housing with rents above <b>social rented</b> but lower than market rent levels. It must meet the Council's <b>affordability criteria</b> . Intermediate rent housing is normally provided by a <b>Registered Provider</b> , or other affordable housing providers agreed by the Council, with a local management presence.
Intermediate Housing	Sub-market <b>affordable housing</b> includes <b>Housing for Intermediate Rent, Shared Ownership/ Shared Equity and Discounted Sale</b> . For intermediate housing to count as affordable it must meet the Council's <b>affordability criteria</b> .
Live/Work Units	The provision of segregated living and working accommodation within a single, self contained unit.
Local Housing Allowance	An allowance that is used to work out entitlement to Housing Benefit, which is calculated on the basis of the size of property (from a single room in a shared house, up to properties with four bedrooms), its location and who is living at the property. Kingston is subdivided into two LHA areas – Outer South West London and Outer South London - where different Local Housing Allowances apply.
Low Cost Market Housing	<b>Affordable housing</b> (meeting the <b>affordability criteria</b> and identified priority needs) offered for sale at sub-market values. Low cost market housing must be secured in perpetuity to ensure that it remains affordable.
Market Housing	Private housing for rent or for sale, where the price is set on the open market.
Off-Site Provision	Provision in kind of <b>affordable housing</b> following the Council's formula for ensuring the correct number of units is provided.

Term	Explanation
Payments in Lieu	Provision of monies to the Council instead of providing the <b>affordable housing</b> (either on, or <b>off-site</b> ).
Peppercorn	A legal term to mean at minimal cost.
Perpetuity	In the foreseeable future.
Registered Provider (RP)	The technical name for social landlords that are registered with the <b>Homes and Communities Agency</b> to provide social housing. RPs run as businesses but do not trade for profit.
Right to Acquire	An option for tenants of <b>Registered Providers</b> to purchase the property in which they live (if it was funded by the <b>Homes and Communities Agency</b> after 1st April 1997) at a discount, the level of which is dependent on the local authority area in which the property is located.
Right to Buy	An option for secure council tenants to purchase the property in which they live in. The property is sold at a discounted price, proportional to the length of tenancy, but subject to the maximum allowed. The Right to Buy is not an automatic right.
Service Charges	Charges in addition to the rent/mortgage payable by the occupant of <b>affordable housing</b> , for example to cover lift maintenance and servicing, and for communal upkeep of landscaping.
Shared Ownership/ Equity	An option for council tenants, housing association tenants, priority need households and those on the housing register to buy a share in a property. A proportion cost of rent is paid on the remaining share. The owner has the opportunity to increase the share they own by ' <b>stair-casing</b> ' up to 100% of the property's equity. Shared Ownership is also known as New Build HomeBuy.
Sheltered housing	The provision of self contained accommodation where all the rooms (including kitchen, bathroom and toilet) in a household's accommodation are behind a single door which only that household can use. Sheltered housing normally falls within Class C3 of the Town and Country Planning (Use Classes) Order and is aimed at people of 55 years and over who are able to live independently. Its special features offer the potential for frail and disabled older people to maximise their independence, gain security and support, while they remain empowered to control their own homes through tenancy rights. Some of the schemes have communal facilities, which allow greater flexibility and choice within the service.
Social Rented Housing	Housing provided at rents no greater than the Homes and Communities Agency's <b>target rents</b> , locally managed by a <b>Registered Provider</b> . Social rented accommodation should be available to households in housing need and will be allocated according to needs-based allocation systems administered by the Council.

Term	Explanation
Stair-casing	When an owner of a <b>shared ownership</b> property increases the proportion of the dwelling that they own over time.
Strategic Housing Market Assessment	A local housing needs assessment that plays a crucial role in underpinning land-use planning policies relating to housing.
Target Rents	Rent levels set by the Government and the <b>Homes and Communities Agency</b> which are used to measure the affordability of social rented affordable housing.
Threshold	The number of units, or size of site, that triggers the <b>affordable housing</b> requirement. In Kingston this is five units.
Universal Credit	A new benefit for working-age people that will be introduced from October 2013, replacing current means-tested benefits (including housing benefit) and tax credits. The maximum award will be subject to a 'benefit cap' based on median net earnings.
Wheelchair housing	Housing specifically designed to enable wheelchair users to live as independently as possible. The usual standards are those contained in the <i>Wheelchair Housing Design Guide</i> by Stephen Thorpe, 2 <sup>nd</sup> edition published in 2006 by BRE bookshop.



"If you are unable to read this document because of disability or language, we can assist you. Please call the Kingston Council Helpline on 020 8547 5757 or ask someone to call on your behalf."

چنانچہ قادر نیستید این نامہ را بہ دلیل ناتوانی یا مشکل زبان بخوانید ما میتوانیم بہ شما کمک کنیم۔ لطفاً خود یا شخص دیگری با شماره کمک شہرداری کینگسٹون تماس بگیرید۔  
تلفن 020 8547 5757 ۰۲۰۸۵۴۷۵۷۵۷

"당신이 신체적인 불편함 혹은 언어 문제로 인해 이 서류를 읽지 못할 경우, 저희들이 돕겠습니다. 킹스톤 의회 상담전화 (Kingston Council helpline) 020 8547 5757 로 직접 전화하시거나 혹은 다른 사람에게 전화를 부탁하십시오"

ئەگەر تۆوانای خویندەنەوی ئەم نوسراوەت نە بەر ئە بەر پەکەوتە/ بێ تۆوانای یاخود ئە بەر زمان تێنە گەشتن ، ئەوا ئێمە ئەتوانین یارمەتیت بدەین . تکایە پەيوەندی بکە بە هێلی یارمەتی شارهوانی کینگستونەوه (Kingston Council) بە ژماره ته له فۆنی 020 8547 5757 یان بەکەسی بلی کە بە ناوی تۆوه پەيوەندی بکات .

"إن لم تكن قادراً على قراءة هذا النص بسبب اللغة أو أي عائق آخر، اتصل بنا فنحن نستطيع مساعدتك. الرجاء الاتصال بخط مجلس كنجستون للمساعدة (Kingston Council helpline) على الرقم 020 8547 5757 أو اطلب من أي شخص آخر الاتصال بنا نيابة عنك."

“ਜੇਕਰ ਤੁਸੀਂ ਅਪਹਜਤਾ ਜਾਂ ਭਾਸ਼ਾ ਦੇ ਕਾਰਣ ਇਸ ਦਸਤਾਵੇਜ਼ ਨੂੰ ਪੜ੍ਹਨ ਵਿੱਚ ਅਸਮਰਥ ਹੋ, ਤਾਂ ਅਸੀਂ ਤੁਹਾਡੀ ਸਹਾਇਤਾ ਕਰ ਸਕਦੇ ਹਾਂ। ਕਿਰਪਾ ਕਰਕੇ 020 8547 5757 'ਤੇ ਕਿੰਗਸਟਨ ਕੌਂਸਲ ਦੀ ਹੈਲਪਲਾਈਨ 'ਤੇ ਕਾਲ ਕਰੋ ਜਾਂ ਅਪਣੇ ਵੱਲੋਂ ਕਿਸੇ ਨੂੰ ਕਾਲ ਕਰਨ ਲਈ ਕਹੋ।”

Caso você nao consiga ler este documento devido a discapacidad ou idioma, nós podemos ajudar. Por favor, lique para o canal de atendimento Kingston Council no telefone 020 8547 5757, ou solicite a alguém para ligar por você.

உங்களால் இந்த கடிதத்தை படிக்க இயலவில்லை என்றால் தயவு கூர்ந்து கிங்ஸ்டன் உதவி மையத்தை நீங்களோ அல்லது உங்களை சார்ந்த எவராவது தொடர்பு கொள்ளவும்.  
தொடர்பு கொள்ள வேண்டிய எண் 020 8547 5757

- کرینگے مدد کو آپ ہم تو ہیں ناقابل سے وجہ کسی پڑھنے کو دستاویز اس آپ اگر فون 020 8547 5757 ۰۲۰۸۵۴۷۵۷۵۷ لائن ہیلپ کاونسل کنگسٹن مہربانی برائے 020 8547 5757 کروائے۔ سے کسی یا کیجنے

Haddii aadan awoodin akhrinta dokumentigan sabab naafada ama luqadda ah, waan ku caawin karnaa. Fadlan soo wac Khadka caawimada ee Kawnsalka Kingston 020 8547 5757 ama qof ku matalaya ka codso inuu na soo waco

我们可以协助您，如果您因语言障碍或残疾不能阅读此文件。请拨打金斯敦市议会热线服务电话 020 8547 5757 或请求他人来代表您通话。

If you would like to discuss any aspect of this document or the Local Development Framework generally, please ring the Strategic Planning team on 0208 547 5312 or email us at [local.plan@kingston.gov.uk](mailto:local.plan@kingston.gov.uk)



Place  
Royal Borough of Kingston  
Guildhall 2  
Kingston upon Thames  
KT1 1EU