
Development Contributions Supplementary Planning Document

July 2020 (updated April 2021)



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Abbreviations

AA	Appropriate Assessment
AH	Affordable Housing
AMR	Authority Monitoring Report
AIFS	Annual Infrastructure Funding Statement
A1 (Use Class)	Shops ¹
A2 (Use Class)	Financial and professional services ¹
A3 (Use Class)	Restaurants and cafes ¹
A4 (Use Class)	Drinking establishments ¹
A5 (Use Class)	Hot food takeaways ¹
CIL	Community Infrastructure Levy
C1 (Use Class)	Hotels ¹
C2 (Use Class)	Residential Institutions ¹
C3 (Use Class)	Dwellinghouses ¹
C4 (Use Class)	House in Multiple Occupation (HMO) ¹
IDP	Infrastructure Delivery Plan
EIR	Environmental Information Regulations
FOIA	Freedom of Information Act
HE	Homes England
IDP	Infrastructure Delivery Plan
JSPB	Joint Strategic Partnership Board
LHA	Local Housing Allowance
NPPF	National Planning Policy Framework
NTSS	Nationally Technical Space Standards
OMV	Open Market Value
PPG	Planning Practice Guidance
PIP	Permission in Principle
RP	Registered Provider of Social Housing
RICS	Royal Institution of Chartered Surveyors
RSH	Regulator of Social Housing
SANG	Suitable Accessible Natural Greenspace
SAMM	Strategic Access Management and Monitoring
SANG	Suitable Accessible Natural Greenspace
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPA	Special Protection Area
SPD	Supplementary Planning Document
SPP	Strategic Priority Programme
SSSI	Site of Special Scientific Interest
VBC	Vacant Building Credit

¹ As defined in The Town and Country Planning (Use Classes) Order 1987 (as amended).

WMS	Written Ministerial Statement
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1. Introduction

- 1.1 A commitment to providing adequate infrastructure alongside new development, increasing the delivery of affordable housing and mitigating adverse effects on ecologically sensitive areas are strong themes within the Elmbridge Local Plan documents.
- 1.2 This Supplementary Planning Document (SPD) provides greater detail on the practical application of the relevant policies and aims of the Local Plan to bring together the Council's approach to seeking contributions from new development to address the cumulative impacts on infrastructure, Thames Basin Heaths Special Protections Area (SPA) and to deliver affordable housing.
- 1.3 There are currently two mechanisms enabling the delivery of these goals - Community Infrastructure Levy (CIL) and Planning Obligations. This SPD is an update of its original version 'Developer Contributions Supplementary Planning Document' published in April 2012 and has been developed to assist applicants, developers and residents in understanding how these mechanisms are applied in Elmbridge.
- 1.4 Following the adoption of the SPD on 22 July 2020, there have been changes to the CIL Regulations (2019), the process in which the Council allocates CIL funding at a strategic level, and an uplift in the Strategic Access Management and Monitoring (SAMM) tariff. The SPD was therefore updated in April 2021 to reflect these changes.

2. Community Infrastructure Levy

Overview

- 2.1 Community Infrastructure Levy (CIL)² enables local authorities to secure appropriate financial contributions to meet the infrastructure requirements arising from new development. Developers may be required to directly provide specific infrastructure through planning obligations to mitigate the direct impact of the development proposed (e.g. a specific road junction or crossing), however a standard fee is also charged through CIL to enable the delivery of new or improved infrastructure needed to support the development generally (e.g. a new school, improvements to open space etc.). The CIL contribution is then combined with contributions from other developments to deliver items of infrastructure.
- 2.2 CIL is utilised to fund infrastructure in support of development across the Borough. The Borough wide improvements are delivered in conjunction with infrastructure providers. The infrastructure includes but is not limited to:
- roads and other transport infrastructure
 - flood defenses, flood risk management/flood alleviation schemes
 - schools and other educational facilities
 - medical facilities
 - sporting and recreational facilities
 - open spaces
 - green and blue infrastructure
- 2.3 In Elmbridge the collection of CIL started in April 2013. The levy is non-negotiable.

Which development is CIL liable?

- 2.4 CIL is calculated in accordance with The Community Infrastructure Levy Regulations 2010 (as amended) and is payable on all development where there is new build floorspace, subject to the exemptions set out below.
- 2.5 Within Elmbridge CIL is currently payable on residential and retail³ developments that include any new build of 100 square metres (sqm) or more gross internal floorspace. Any development that involves the creation of an

² The Planning Act 2008 sets out the legal principles for the CIL which then came into force in the Community Infrastructure Regulation 2010 (as amended) (legislation.gov.uk).

³ Uses falling within Use Classes A1 – A5 as defined in The Town and Country Planning Use Classes Order 1987 (as amended).

additional dwelling however, even when the floor area is below the 100sqm threshold⁴, is also subject to the levy.

- 2.6 Based on a viability study and following the examination in public, the CIL charging schedule was set in 2013 at:
- £125 per sqm for residential dwellings (Use Class C3); and
 - £50 per sqm for retail development (Use Classes A1-A5)

The above rates are subject to indexation applied in accordance to the CIL regulations. For the current rates please see the Council's website.

- 2.7 Examples of various scenarios associated with the implementation of the CIL charging schedule are set out in Appendix 1.

How is CIL calculated?

- 2.8 CIL is calculated per sqm of development on gross internal area (GIA). GIA is the area of a building measured to the perimeter walls at each floor level. In accordance with the Royal Institution of Chartered Surveyors (RICS) GIA definitions are set out in Appendix 2.
- 2.9 An Affordable Housing, Strategic Access Monitoring and Management (SAMM) and CIL Liability Calculation Sheet is available on the Council's website to assist applicants investigating potential development liabilities.

CIL exemptions

- 2.10 A number of development types are exempt from paying CIL, subject to an approved application. These include exemptions for self-build housing, residential annexes and extensions, charitable developments and social housing. In setting out the CIL charging schedule, the Council considered that there were no exceptional circumstances in the Borough that would require considerations of discretionary exemptions, as set out in the CIL Regulations.
- 2.11 The Government's Planning Policy Guidance (PPG) provides the most up-to-date CIL guidance⁵ and further information on specific requirements relating to exemptions and procedures.
- 2.12 Development that does not require planning permission ('permitted development') may be of a sufficient scale to be liable to CIL. It is the responsibility of the developer to serve a Notice of Chargeable Development to the Council before development starts.

⁴ Part 11 of the Planning Act 2008 and Community Infrastructure Levy Regulations 2010 (as amended).

⁵ PPG Reference ID: 25-104-20190901.

When does development become CIL liable?

- 2.13 Charges become due from the date that a chargeable development is commenced. For the purposes of CIL, the commencement of development means carrying out a 'material operation' defined in section 56(4) of the Town and Country Planning Act 1990. If planning permission is granted after commencement, the development is deemed liable when permission is granted.
- 2.14 The Council operates the following installment policy:
- CIL of under £12,500 is due at 90 days after commencement;
 - CIL of between £12,500 and £50,000 in two equal instalments at 90 and 180 days after commencement; and
 - CIL of over £50,000 in three equal instalments is due at 90, 180 and 270 days after commencement.
- 2.15 In accordance with the CIL Regulations where the requisite CIL payment is not paid in compliance with the above schedule and when requested, any late payment will be subject to a late payment interest charge set at 2.5% above the Bank of England base rate. Failure to provide a CIL Commencement notice prior to commencement of development is subject to a surcharge of 20% of chargeable or notional⁶ amount, or £2,500, whichever is the lower.

CIL funding

- 2.16 Spending of CIL can be prioritised according to essential and desirable infrastructure⁷. The Council will prioritise the delivery of Suitable Accessible Natural Greenspace (SANG) as an item of essential infrastructure in order to meet the requirements of the relevant legislation and mitigate the adverse impacts of development on the Thames Basin Heaths SPA.
- 2.17 As required by the CIL Regulations (2019), the Council reports the overall CIL receipts and expenditure in the relevant year as part of its Annual Infrastructure Funding Statement (AIFS). Statements are published on the Council's website⁸ by December each year.

Strategic spending process

- 2.18 CIL allows the Council to raise funds from certain types of new development to help fund the physical infrastructure needed to mitigate the impacts of new development. The bulk of the money raised goes towards strategic Borough wide schemes such as highway schemes, permanent school expansions or

⁶ Notional amount relates to the S73 applications only.

⁷ Essential infrastructure - infrastructure without which development would simply not take place; Desirable infrastructure – infrastructure which provides additional facilities and services in an area to take account of the proposed level of new development but that would not prevent development from occurring.

⁸ elmbridge.gov.uk/planning/community-infrastructure-levy-cil-funding

flood works.

- 2.19 The strategic CIL funds for the Council are allocated through the Strategic Priority Programme (SPP) which forms part of the Council's Annual Infrastructure Funding Statement (AIFS).
- 2.20 Discussions have taken place with strategic infrastructure providers to determine the infrastructure needed in the various sectors e.g. education, health, transport, environmental etc., in order to support the growth of the borough and to create the SSP list. The list creates a pipeline of priorities to enable a proactive and strategic approach toward the funding and delivery of infrastructure.
- 2.21 Applications are invited for the potential projects on the SPP list in the early part of the calendar year. These are reviewed by the Strategic CIL Member Working Group in the Summer of the same year for funding and then agreed by Cabinet, with the successful projects forming the SPP.
- 2.22 The SPP and list will be reviewed annually by the Strategic CIL Member Working Group and agreed by Cabinet, so there are opportunities for additional priority projects to be added for consideration in future rounds.

Local spending process

- 2.23 As part of the process, the Council also allocates a portion of the CIL funds to be spent locally on smaller infrastructure schemes that are required in the communities where development took place.
- 2.24 The Council has formed settlement area committees known as 'Local Infrastructure Spending Boards' where local Councillors decide on how these local CIL funds are allocated within their area. In the case of Claygate, the local proportion of CIL funds is passed directly to the Parish Council.
- 2.25 Successful local CIL applications for funding to date have included projects such as capital improvements to state schools to better enable them to meet the needs of an increasing school population, improvements to community facilities, footpath works and countryside access improvements.

3. Thames Basin Heaths Special Protection Area

- 3.1 The Thames Basin Heaths Special Protection Area (SPA) was designated on 9th March 2005 and forms part of Natura 2000, a European-wide network of sites of international importance for nature conservation established under the European Community Wild Birds and Habitat directives. The SPA is one of the South East's most important natural assets with the lowland heath supporting important populations of vulnerable ground-nesting birds - Dartford Warbler, Nightjar and Woodlark.
- 3.2 The SPA covers areas of heathland across 11 local authority areas in Surrey, Hampshire and Berkshire. Within Elmbridge the area covers Chatley Heath, part of the Ockham and Wisley Commons Site of Special Scientific Interest (SSSI) to the south of the Borough, in an area between the M25, the A3 and the Borough boundary.
- 3.3 The relevant national legislation that underpins the SPA seeks to ensure that any proposed development scheme or plan does not adversely affect the integrity of the SPA. Natural England, a non-departmental public body, whose purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development, have advised that new housing within 5km of the SPA may harm the rare birds' populations. This harm can be caused by disturbance to the birds from walkers, cats and dogs frequenting the heathland, and other recreational activities arising from additional housing.
- 3.4 The SPA project that seeks to mitigate for this identified harm is coordinated strategically through a Joint Strategic Partnership Board (JSPB)⁹ which brings together representatives of the 11 affected local authorities, county councils, landowners and environmental groups.

Planning Policy and Context

- 3.5 This section of the SPD provides updated guidance on how the avoidance and mitigation strategy is applied to avoid or minimise any adverse effects of the additional new residential occupancy within the defined buffer zones of the Thames Basin Heaths SPA.
- 3.6 The Thames Basin Heaths SPA is protected from adverse effects under The Conservation of Habitats and Species Regulations 2017 and the European Directive 2009/147/EC. Following the UK's departure from the European

⁹ JSPB - surreyheath.gov.uk/residents/planning/planning-policy/joint-strategic-partnership

Union, the continued protection of the Thames Basin Heaths SPA is secured through The Conservation of Habitats and Species Regulations 2017.

National Planning Policy Framework (2019)

- 3.7 Chapter 15 of the National Planning Policy Framework (NPPF) is concerned with conservation and enhancement of the natural environment. Paragraph 177 confirms that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Regional Planning Policy

- 3.8 Policy NRM6: Thames Basin Heaths Special Protection Area is the only policy of the South East Plan (2009) that remains in force, following the remainder of the Plan being revoked in 2013. Policy NRM6 sets out the principle of the protection of the Thames Basin Heaths SPA in the South East.

Local Planning Policy

- 3.9 Policy CS13: Thames Basin Heaths SPA of the Elmbridge Core Strategy (2011) draws on the requirements of Policy NRM6 of the South East Plan (2009) and sets out a local framework to ensure that the SPA is protected from the implications of additional residential development and appropriate mitigation is secured.

Mitigation measures

- 3.10 The Thames Basin Heaths SPA Delivery Framework¹⁰ sets out the principles for ensuring the protection of the SPA. The measures to avoid harm to the SPA include:
- 400m (linear) buffer zone around the SPA
No net additional residential development will be permitted within this zone;
 - 400m and 5km buffer zone
Any additional residential development will need to provide the following mitigation:

¹⁰ Delivery Framework – surreyheath.gov.uk/residents/planning/planning-policy/joint-strategic-partnership

- Provision of Suitable Accessible Natural Greenspace (SANG); and
- Financial contribution towards the Strategic Access Management and Monitoring (SAMM) measures;

SANG is combined with SAMM measures to manage recreational pressure on the SPA itself. As a consequence of these measures, an appropriate mitigation must be provided for any new residential development within this buffer zone.

- 5km – 7km buffer zone from the SPA
Major residential developments of 50 units and more within the zone will be considered in consultation with Natural England on a case-by-case basis in order to ascertain whether these should provide appropriate mitigation (SANG and SAMM).
- 3.11 To meet the requirements of the relevant legislation and to mitigate the adverse impacts of development on the Thames Basin Heaths SPA, SAMM contribution is non-negotiable. Without the SAMM and SANG contributions, development is likely to be unacceptable and would be refused.
- 3.12 A financial contribution towards SAMM has to be secured by a legal agreement prior to determination of the relevant application. The Council published a template legal agreement¹¹ for applicants to use. The provision of SANG is delivered through the CIL process.

Suitable Accessible Natural Greenspace (SANG)

- 3.13 The aim of SANG is to attract informal recreation users, such as walkers, away from the SPA. This can be in the form of new open space, or the improved existing open space, with a capacity for informal recreation to a minimum standard of 8 hectares per 1,000 residents.
- 3.14 The Borough currently has two designated SANGs, at Brooklands Community Park and Esher Common, and associated programmes for their enhancement and maintenance. Their capacity is regularly monitored and published in the Council's Infrastructure Delivery Plan (IDP).
- 3.15 SANG falls within the definition of infrastructure and therefore contributions must be collected through CIL. In order to ensure that SANG is delivered, the Council ring fence the required amount of funding for SANG from all CIL eligible development that has been delivered within 400m - 5 km linear distance of the SPA. Money for other infrastructure within this zone is allocated once the necessary SANG allocation has been deducted.

¹¹ Please see the Unilateral Undertaking template on the Council's website.

Strategic Access Management and Monitoring (SAMM)

- 3.16 In addition to SANG, SAMM forms part of the approach to mitigating adverse effects of additional residential development in the buffer zone of the SPA. The SAMM project introduces mitigation measures on the SPA itself, including a monitoring programme that provides the baseline assessment and ongoing data to measure the effect of visitor numbers on the SPA. It also evaluates the success of avoidance and mitigation measures, including the effectiveness of SANG. The access management element focuses on “soft”, non-infrastructure measures e.g. wardening, leaflets and educational material.

Development that is subject to SPA mitigation

- 3.17 The provision of SANG for the qualifying developments – full applications and changes of use under permitted development procedures, prior approvals for changes of use to residential, outline planning applications and any other types of development set out in paragraphs 3.18 – 3.24 below, is secured through the CIL process.

Full planning applications and changes of use under permitted development procedures

- 3.18 New or additional developments falling within Use Classes C1 (hotels) and C2 (residential institutions) - assessed on a case by case basis; C3 (dwellingshouses; only where there is a net gain of homes) and C4 (houses in multiple occupation) are considered to give rise to likely significant effect on the SPA and are required to contribute towards SAMM. Replacement dwellings do not qualify for a provision of mitigation measures.
- 3.19 Proposals for other forms of development either due to their proximity to the SPA or where the use is a quasi-residential use such as certain types of hotels, will be required to contribute towards avoidance measures. In such cases this will take the form of a contribution to SAMM measures.
- 3.20 Large residential development proposals of 50 homes and more within the 5km – 7km buffer zone of the SPA, which due to their scale, potential impact and ability to offer their own alternative avoidance measures, such as a bespoke SANG, will be considered on a case by case basis.
- 3.21 Conversions from C3 (Dwelling Houses) to C4 (Houses of Multiple Occupation) are considered to give rise to likely significant effect on the SPA. Such development would require the Prior Approval¹² of the Borough Council and likely a SAMM contribution.

¹² Regulation 77 of the Conservation of Habitats and Species Regulations 2017.

Prior Approvals for a change of use to residential

- 3.22 Prior Approvals for a change of use to residential within the 5km buffer zone of the SPA are liable to compensate for the potential impact, either individually or in combination with other developments, of additional residential occupancy on the integrity of the SPA. SAMM contribution to be secured by a completed legal agreement is therefore required prior to determination of Prior Approval. Applicants should be aware that the Council is unable to agree extensions of time for determination of Prior Approvals and therefore where a satisfactory legal agreement is not received in a timely manner, proposals would be refused.

Outline planning applications

- 3.23 Mitigation measures associated with the potential impact of additional residential occupancy in the buffer zone of the SPA must be secured by a legal agreement prior to determination of outline planning applications.

Any other types of development

- 3.24 Future changes to the legal/regulatory frameworks or to Government policy may mean that certain types of development which currently require planning permission may not do so in future. However, if there is a net gain in housing units as set out above, the development will require the Prior Approval of the Borough Council and is likely to be required to contribute towards SAMM. Such cases would be dealt with on an individual basis and applicants are encouraged to seek advice before submitting a planning application or carrying out conversions under Permitted Development Rights.

Permission in Principle

- 3.25 The Council will process PiP requests in accordance with the most up to date guidance and case law. In accordance with the current advice provided by Natural England, Permission in Principle cannot be determined favourably for habitats development¹³ within the 5km buffer zone of the Thames Basin Heaths SPA, i.e. permission in principle cannot be granted for any residential development with a net increase in the number of homes within the zone. Instead, applicants should submit an outline or a full application, as part of which the relevant Thames Basin Heaths SPA mitigation can be secured via a planning obligation at the application stage¹⁴.

¹³ Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended). The “habitats development” means development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site.

¹⁴ This advice is offered on the basis of the current legislation (see footnote 12) and guidance (PPG Reference ID: 58-004-20190315). The Council will process Permission in Principle requests in accordance with the most up-to-date guidance and case law.

Exemption to SAMM contribution

- 3.26 In the interest of consistency with the approach taken to CIL and in recognition of the importance of affordable housing provision in the Borough, the tariff does not apply to affordable homes. A 34%¹⁵ supplement is applied to all other residential units to compensate for the exclusion of affordable housing. This has been reflected in the tariff calculations in Table 1 below.

Calculating SAMM

- 3.27 The SAMM tariff depends on the number of bedrooms¹⁶ and is based on local occupancy figures and the projected mix of housing likely to be delivered in the local area.
- 3.28 The methodology for calculating a local 'per bedroom' tariff for Elmbridge is in accordance with the methodology in Natural England's SAMM Tariff Guidance document¹⁷ and their updated tariff increase from April 2021.

Table 1: Elmbridge SAMM tariff

No. of bedrooms	Occupancy	Tariff @ £496 per person
1	1.31	£650
2	1.76	£873
3	2.51	£1,245
4	2.86	£1,418
5+	3.73	£1,850

- 3.29 For the purposes of SAMM calculation for conversions from C3 use to C4 use, each C4 use bedroom will be considered to have an average occupancy rate of 1 person, unless there is evidence to suggest that a higher rate of occupation will be achieved. The occupancy rate of the existing C3 dwelling house will be subtracted from the occupancy of the Housing in Multiple Occupation (HMO) to calculate the number of persons for whom avoidance is required. A worked example (Example A) is shown below to illustrate this calculation:

¹⁵ The affordable housing target contained within Core Strategy Policy CS21: Affordable Housing (1,150) as a proportion of the overall housing target in Policy CS2: Housing provision, location and distribution (3,375).

¹⁶ For the purposes of clarity when calculating the number of bedrooms for the purposes of calculation of the contribution, additional habitable rooms capable of realistic conversion to bedrooms will be included. Habitable rooms capable of future conversion into a bedroom will include, for a dwelling house with more than one storey, any room at first floor level and above with an external window (excluding bathrooms and the like), with a floor area greater than 6.5 sqm.

¹⁷ Natural England SAMM tariff guidance – surreyheath.gov.uk/residents/planning/planning-policy/community-infrastructure-levy-cil/samm-tariff-guidance

Example A – Calculation of a C4 property’s occupancy

Conversion of a 3 bed C3 dwelling house to 5 bed HMO:

Existing Occupancy Rate (C3): (3 bed, from Interim Strategy) 2.51 people

HMO Occupancy Rate: (1 x 5) 5 people

Avoidance Measures Required: (5 - 2.51) 2.49 people

Spending SAMM

- 3.30 The SAMM project is jointly funded through developer contributions collected across the 11 affected authorities and provided for in perpetuity¹⁸. It is coordinated strategically through the Joint Strategic Partnership Board by Natural England with Hampshire County Council fulfilling the role of Treasurer. The charge collected is pooled with other SPA affected local authorities for strategic allocation. The Council has been collecting SAMM since October 2010 and all parties signed a Memorandum of Agreement in June 2011 to facilitate the transfer of funds for strategic allocation and delivery of the project. The Council transfers SAMM monies every quarter to Hampshire County Council for strategic allocation. Further details of the project can be found in the Infrastructure Delivery Plan available on the Council’s website¹⁹.
- 3.31 Contributions may also be used to fund the staffing costs for monitoring and administration either within the Borough Council or by a joint body to oversee parts or all of this work. Monitoring includes surveys to check visitor numbers to SANGs and to the SPA.

Monitoring and Review

- 3.32 The amount of SAMM collected and transferred for strategic allocation is recorded in the Council’s Authority Monitoring Report (AMR)²⁰.
- 3.33 Natural England is committed to reviewing the tariff guidance regularly. Once amendments are agreed by the JSPB any changes made will be reflected in reviewing this local tariff and will be available on the Council’s website.

¹⁸ Perpetuities and Accumulations Act 2009 – legislation.gov.uk

¹⁹ elmbridge.gov.uk/planning/planning-policy

²⁰ elmbridge.gov.uk/planning/planning-policy/monitoring-reports-action-plans-and-article-4-directions

4. Affordable Housing Contributions

Planning Policy and Context

- 4.1 The cost of housing in the UK and its impact on local people is a key concern for most local authorities, ranking higher than long-held concerns on health and social care services. Whilst high house prices and subsequent affordability issues are not particularly unique when it comes to the South-East region; with most areas now becoming ‘unaffordable’ to the first-time buyer, the region is becoming increasingly polarised with house prices ranging from nearly £759,000 in Elmbridge Borough compared to just over £208,000 in Gosport.
- 4.2 Average (mean) house prices in 2016/17 in Elmbridge Borough were exceptionally high, amongst the highest in the country and, as prices continue to rise, are now 2.6 times that of the national average. In addition, when compared to the South East and Surrey averages (mean), house prices in Elmbridge Borough are now double the South East average and one and a half times that of the Surrey average. Continued increases in house prices in Elmbridge Borough show that the area is becoming increasingly expensive and at a quicker rate than most areas. For example, over the last decade (2007 – 2017), house prices have increased by 54% in comparison to the England average of 38%.
- 4.3 ‘To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.’²¹
- 4.4 ‘Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:
- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 - b) the agreed approach contributes to the objective of creating mixed and balanced communities.’²²
- 4.5 Affordable housing is housing for sale or rent for those whose needs are not met by the market including housing that provides a subsidised route to home ownership and/or is for essential local workers. Affordable homes comprise the affordable housing for rent, starter homes, discounted market sales

²¹ NPPF 2019 - Paragraph 59

²² NPPF 2019 - Paragraph 62

housing and other affordable routes to home ownership, e.g. shared ownership, relevant equity loans, other low cost homes for sale or rent to buy. The main types of affordable housing are defined in the National Planning Policy Framework (NPPF)²³.

4.6 The requirement for contributions towards the affordable housing is set out in Policy CS21 of the Elmbridge Core Strategy 2011. The policy aims to increase the overall delivery of affordable housing in the Borough and to help meet an identified local need. The Council requires provision of affordable housing, where viable, on sites with a net increase in the number of residential units as follows:

- 40% of the gross number of dwellings on sites of 15 dwellings or more;
- 30% of the gross number of dwellings on sites of 6 – 14 dwellings;
- 20% of the gross number of dwellings on sites of 5 dwellings; and
- A financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1 – 4 dwellings.

Furthermore, where development is proposed on a greenfield site²⁴, at least 50% of the gross number of dwellings should be affordable on any site of 15 dwellings or more. A target of at least 50% will apply to public land²⁵, regardless of the number of dwellings proposed. The Council reserves the right to apply the policy using habitable rooms, where this helps to achieve a better mix of dwellings in accordance with the objectively assessed identified need outlined in the most up-to-date Strategic Housing Market Assessment (SHMA). Table 2 below indicates the current proportional need of various affordable housing tenures across the Borough in accordance with the dwelling size based on SHMA 2016.

Table 2: Proportional need (%) for affordable housing tenure in Elmbridge

	Social rented sector	Affordable rented sector	Intermediate sector
1 bed	75	12	13
2 bed	66	19	15
3 bed	59	26	15
4+ bed	56	28	16

4.7 The policy applies only to developments in Use Class C3.

²³ NPPF 2019 – Annex 2: Glossary.

²⁴ 'Greenfield site' is land that is not a 'previously developed land' as defined by the NPPF. For the purposes of this SPD, it excludes residential garden land.

²⁵ For the purposes of this SPD, 'public land' is defined as 'land that is owned or in use by a public sector organisation, or company or organisation in public ownership or land that has been released from public ownership and on which housing development is proposed.'

Intermediate housing

- 4.8 Intermediate affordable housing can play an important role in meeting the housing needs of those who can afford to pay more than social rents (and who are unlikely to be a priority for this type of accommodation) but who cannot afford suitable housing in the open market.
- 4.9 There is a variety of intermediate affordable housing products, however, shared ownership housing is one form of intermediate housing and has been in the past the most popular form of intermediate tenure provided within Elmbridge through the planning system. With shared-ownership the applicant acquires a new-build property from a Registered Provider on a part rent / part buy basis. The applicant raises a mortgage in the normal way to buy a share of the property and pays subsidised rent on the remaining share. The applicant can then increase their share in the property as their finances improve if they wish until they own the property outright, a process known as staircasing.
- 4.10 The Council wishes to ensure that intermediate affordable housing provided within the borough is a realistic and affordable option for households across a spread of incomes, from £20,000 to £80,000 (gross) rather than only being available to households with incomes towards the upper end of this spectrum. Furthermore, applicants/developers will need to demonstrate that any proposed intermediate affordable housing meets the definition of affordable housing, in that it should be available at a total monthly cost which is less than the costs of buying or renting privately within Elmbridge²⁶.
- 4.11 In order to ensure that shared-ownership is genuinely affordable to households across the target income bracket (and not merely to those at its higher end) the Council will seek a commitment, through any Unilateral Undertaking / Section 106 agreement, that the Registered Provider / Affordable Housing Provider will endeavour to limit the average initial equity share sold at first disposal to no more than 35% of the open market value. This provides flexibility to dispose of higher shares to those households which can afford larger shares, whilst allowing smaller shares to be sold to those with more limited means. The planning agreement will also put upper limits on the annual rents on the share retained by the affordable housing provider (on shared-ownership) at less than the 2.75% of the unsold equity. Providers will also be expected to keep service charges down to a reasonable level.

²⁶ Data on market rents in Elmbridge is available from the Valuation Office Agency - gov.uk/voa

Use Class C2 vs Use Class C3

- 4.12 Residential development proposals are sometimes described as Use Class C2 (residential institutions, care to people in need of care and nursing homes) instead of Use Class C3 (dwellinghouse) in order to avoid making a contribution towards the affordable housing. Therefore, the Council will carefully scrutinise the development proposals to ensure that the language used to describe the proposed accommodation is not disguising its intended use. When a C2 use is established during the application process, relevant criteria, some of which are set out in the following paragraph, will be secured through a Section 106 planning obligation. In addition, the Council will consider the available evidence as to whether the proposed development's Use Class (or mix of Use Classes) is fulfilling a local need.
- 4.13 To establish whether the proposed use falls within the Use Class C2 or C3, the applicants will have to submit a full specification of the offered services and facilities to justify the C2 use. In particular, the Council will seek clarification on the following matters, as to what/whether:
- is the track record of the proposed operator;
 - legal restrictions apply to the occupation of the units;
 - units are restricted requiring occupants to be either in need of a specified level of care or in receipt of a specified minimum package of care services and or above a specified minimum age;
 - arrangements are in place in relation to the availability of care from a registered care provider;
 - eligibility criteria apply at the admission/sign-up stage. Do prospective occupiers have to have a need for paid care (above a minimum number of hours per week) at the point of moving in? Is this confirmed by a formal care assessment? Are residents required to pay for a minimum number of hours of care per week as a condition of occupation? How many hours of care must residents agree to?
 - the arrangements for and availability of meals are;
 - the extent of the communal facilities is;
 - the ownership arrangements (freehold/leasehold/rent) are; and
- 4.14 Mixed care development proposals may contain both C3 and C2 uses and these elements will be treated separately by the Council in order to ensure that appropriate and much needed affordable housing contributions are secured.
- 4.15 Further information can be found in the 'Development Management Advice Note 3: Specialist Accommodation Need' on the Council's website²⁷.

²⁷ elmbridge.gov.uk

When is a contribution towards the affordable housing required?

- 4.16 The NPPF²⁸ incorporated the provision set out in the Written Ministerial Statement (WMS) in relation to affordable housing contributions. This introduced a conflict with the Council's approach to affordable housing provision set out in Policy CS21. A Statement on Affordable Housing Provision on Small Sites²⁹ outlines the Council's position on the NPPF and how it intends to take forward decisions where there is a conflict between local and national policy.
- 4.17 Elmbridge has some of the highest land values and property prices in the country. This makes it extraordinarily difficult for residents to find reasonably priced homes either to buy or to rent. However, it also means that nearly all development for new homes in the Borough can make full affordable housing and CIL contributions.
- 4.18 To support the continued implementation of Policy CS21, the Council commissioned external consultants to undertake a [Viability Report](#)³⁰ (with an [Appendix](#)³¹) to review the approach to seek affordable housing contributions on residential sites of fewer than 10 units/1,000sqm. The Council intends to undertake regular reviews on its approach and further updates will be published on the Council's website.
- 4.19 Policy CS21 sets out a target for the number of affordable homes Elmbridge seeks to deliver by 2026 and the proportion of affordable housing, or the financial contribution to support their delivery that is expected to be provided where there is an increase in housing on development sites. Due to the continuing housing affordability challenges in Elmbridge and the reliance on small sites for much of the housing developed in the Borough, the Council continues to seek affordable housing contributions from smaller sites.
- 4.20 Planning applications for an increase in the number of dwellings are expected to provide the affordable housing contribution in the form of a financial and/or on-site/off-site contribution. This contribution must be secured by a legal agreement prior to determination of the application. To assist the applicants, the Council published a [template legal agreement](#)³². Where a bespoke legal agreement is necessary, the applicant is expected to cover the Council's legal fees associated with the preparation of such a document.

²⁸ NPPF 2019 paragraph 63.

²⁹ See Appendix 3 (Statement on Affordable Housing Provision on Small Sites).

³⁰ See elmbridge.gov.uk/planning/developer-contributions

³¹ See footnote 30.

³² Please see the Unilateral Undertaking template on the Council's website.

How is Policy CS21 applied in practice?

- 4.21 The policy applies to the gross number of units proposed on all housing sites, mixed use sites that incorporate an element of residential development, sheltered and extra care schemes (falling under Use Class C3), where there is a net increase in the number of units on the site. For example, where it is proposed to demolish 5 houses and to build 10, the policy would be applied to 10 units. The policy does not apply to developments where there is no net increase in the number of units on a site, e.g. 5 dwellings being replaced with 5 dwellings or proposals for replacement dwellings ('one for one's'). Where additional units are being provided on a site where there are existing units, which will remain, the policy will apply to the net increase only.
- 4.22 The policy applies to the conversion or change of use of any building, whether or not it is already in residential use. The policy does not, however, apply to:
- residential accommodation, which is to be used as incidental to the main dwelling and whose independent occupancy is restricted by condition e.g. staff/student accommodation, granny annex;
 - any residential accommodation associated with the educational facilities within the grounds of schools, which cannot be let or sold as independent market dwellings/flats and this is secured by condition;
 - flats above shops, which do not have a separate access (access is through the shop) and their use is restricted in association with the shop;
 - any part-time/non-permanent accommodation i.e. holiday accommodation where full time occupancy is restricted by condition;
 - housing for more vulnerable members of the community e.g. those with mental health problems or physical disabilities that require a high level of on-site support and their use is restricted by condition in these terms;
 - accommodation for Gypsies and Travellers; and
 - accommodation falling within Use Class C2.
- 4.23 Where sheltered schemes (C3 Use Class) are required to make a contribution, due to a current oversupply of sheltered housing for rent, a financial contribution will be required.
- 4.24 The size of the development should not be artificially reduced in order to reduce or eliminate the affordable housing requirement, for example by subdividing sites or reducing the density of whole or part of a site. The Council will have regard to all policies within the Elmbridge Local Plan to ensure the efficient use of land and delivery of development that meets local need. Where proposals do not accord with these policies applications would be refused.

Design standards

- 4.25 To aid the promotion of inclusive and sustainable communities, the provision of on-site affordable housing should integrate seamlessly into the layout of the development through ‘pepper-potting’ within private housing. Within apartment blocks it is accepted that management issues mean whole blocks will generally be affordable or market housing and that affordable units will be provided in clusters as part of larger schemes.
- 4.26 The Council seeks high design and architectural standards for all development³³. The affordable housing element of any proposed development should therefore be of the same build quality and appearance as the market housing and must comply with the National Technical Space Standards (NTSS)³⁴. Use of substandard materials or poor finishing and detailing will not be acceptable.
- 4.27 Applicants are expected to design the affordable units in accordance with the NTSS and specifically not to exceed the given floor areas by more than 10% unless exceptional circumstances are demonstrated, for example a unit is built to meet the lifetime homes standards. This is to ensure the affordability of the implemented units considering the service charges (for the flatted schemes), cost of heating etc, ultimately securing the viability of the units at the point of their transfer to the RPs at the completion stage. This also ensures compliance with the policy requirement for the effective use of land.

How is a financial contribution towards the affordable housing calculated on sites of up to 4 units?

- 4.28 For the reasons of viability and housing management, on-site provision of affordable homes on sites of 4 or less dwellings can be problematic and therefore on such sites a financial contribution equivalent to 20% affordable housing provision is required.
- 4.29 The Council will seek a financial contribution that would allow affordable housing providers to secure the land in lieu of and equivalent to on-site provision. The proposed approach involves approximating the land value that needs to be replaced elsewhere and allowing for the cost of acquiring and servicing that land e.g. providing access and utilities. The affordable housing percentage is then applied to this figure, i.e. 20%. This methodology can be also used to calculate financial contributions where, in exceptional circumstances, this is agreed in lieu of on-site provision and the appropriate

³³ NPPF and the National Design Guide. (gov.uk/government/publications/national-design-guide)

³⁴ gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard

percentage equivalent to that would have been sought on-site in accordance with Policy CS21.

- 4.30 The methodology is described in more detail below and in Appendix 4 that includes a worked example.

Summary of methodology for calculating a financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1-4 dwellings

Step 1 – Open Market Value (OMV) of the relevant or comparative development

Step 2 – Multiply the OMV (Step 1) by the residual land value percentage (39.2%)

Step 3 – Add 15% of the result of Step 2 to reflect site acquisition and servicing costs.

Step 4 – Apply the affordable housing policy percentage (i.e. Step 3 x 20%)

Step 1 of 4 – OMV of the relevant or comparative development

- 4.31 This is the expected sale price of the property, or properties, proposed on the development site, divided by the size of the property (Gross Internal Floor Area) and multiplied by the affordable housing size that would have been required on-site.
- 4.32 The applicant is required to inform the Council of the anticipated OMV of the proposed development. This should reflect the location, size and type of the property, or properties, and should be supported by appropriate evidence³⁵.
- 4.33 The affordable housing property size equivalents (i.e. relevant or comparative development) shown below have been based on the nationally set minimum space standards³⁶. The affordable housing equivalent closest to the size (no. of bedrooms) and type (no. of storeys) of the proposed market units will be applied as set out in Table 3 below.

³⁵ Please see footnote 16.

³⁶ 'Technical housing standards – nationally described space standard'
gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard

Table 3 – Size of affordable housing unit equivalent to the market housing

	Dwelling type (bedrooms)	Minimum gross internal area (sqm)
Single floor dwelling	1	44
	2	66
	3	86
	4	104
	5	112
	6	120
Two storey dwelling	1	58
	2	75
	3	93
	4	111
	5	119
	6	128
Three storey dwelling	3	99
	4	117
	5	125
	6	134

Step 2 of 4 – Multiply the OMV (Step 1) by the residual land value percentage (39.2%)

- 4.34 This is the value of the land to the applicant after all of the development costs associated with planning and constructing the property, or properties, including the developer's profit, are subtracted from the anticipated sale price of the development. In Elmbridge, the average plot value for a residential development was assessed to be approximately 39.2% of its OMV³⁷. This percentage (39.2%) is applied to the OMV of the proposed development (result of Step 1) to establish the indicative base land value.

Step 3 of 4 – Add 15% of the result of Step 2 to reflect site acquisition and servicing costs

- 4.35 To accurately reflect the cost of going elsewhere and replacing the land on which the affordable housing would have been provided on-site, an additional 15%, as recommended in the Viability Study³⁸, is added to the resulting plot value (Step 2) to reflect the costs associated with the acquisition and servicing

³⁷ Viability Study, 2009, page 48 – elmbridge.gov.uk/planning/planning-policy/document-archive

³⁸ See footnote 37.

of an alternative site.

Step 4 of 4 – Apply the affordable housing policy percentage (i.e. Step 3 x 20%)

- 4.36 In order to calculate the appropriate financial contribution, the affordable housing policy percentage is applied to the result of Step 3, in this case 20%.

Affordable housing provision on sites of 5 and more units

- 4.37 In accordance with Policy CS21, developments of gross number of dwellings of five and more are liable for the on-site provision. The calculation of the policy compliant affordable housing contribution on sites of 5 and more units is carried out using Steps 1 – 4 outlined in paragraph 4.30 with the amended percentage in Step 4. This percentage is replaced with the percentage required by Policy CS21 in accordance with the scale of the development, i.e. for example on sites of 5 dwellings, one on-site unit should be provided; on sites of 6 – 14 dwellings the correct percentage to be applied would be 30%; or 50% to be applied to the development on public land. In some instances, this will result in a combination of the on-site provision and a financial contribution, where the contribution results in a partial unit (please see Table 4 below). The Council's calculation sheet (MS Excel) is available on the website³⁹.
- 4.38 National and local policies set out a presumption for affordable housing to be provided on-site. Only in exceptional circumstances will an alternative to on-site provision be acceptable. In such circumstances the onus will be on the applicant to clearly demonstrate that on-site provision would result in insurmountable management or other problems that would compromise viability.
- 4.39 In these instances, the first priority would be to seek provision on an alternative site in the same settlement area as the application site in order to facilitate the creation of sustainable, mixed communities. The affordable housing target will be applied to the combination of both sites to ensure a pro-rata contribution since, in effect, two sites will be developed. The formula to be applied in these circumstances will depend on the number of dwellings to be provided on the original site and the proportion of affordable housing that the policy requires (please see Example B).

³⁹ Please see the 'Planning Contributions Charge Sheet – Calculation Tool' at elmbridge.gov.uk/planning/developer-contributions

Example B - Calculation of an off-site affordable housing contribution

- A developer is required to provide 10 units as off-site affordable housing.
- The proposed development on the alternative site is to build 40 residential units. Policy CS21 would require 40% of this to be provided as affordable housing, which equals to 16 units.
- The applicant is therefore required to provide the 10 units as off-site provision plus the 16 units that would have been required under normal policy requirements on the alternative site, 26 units in total.

- 4.40 In considering off-site provision, an appropriate site should have been identified and either granted planning permission or has been submitted alongside the application for the facilitating site. The Council will seek a legal agreement to deliver the off-site affordable units either at the same time as the facilitating site or within an agreed reasonable time period following completion of the facilitating site.
- 4.41 In exceptional circumstances where a financial contribution is accepted in lieu of on-site provision this will be equivalent to the proportion that would have been sought on-site.

Table 4 – Provision of affordable housing on sites up to 14 units

Total number of units in the scheme	Percentage of development to be provided as affordable housing	Total affordable housing contribution (number of units)	Total affordable units provided on site	Proportion of units collected as a financial contribution
1	20			0.2
2	20			0.4
3	20			0.6
4	20			0.8
5	20	1	1	0
6	30	1.8	1	0.8
7	30	2.1	2	0.1
8	30	2.4	2	0.4
9	30	2.7	2	0.7
10	30	3	3	0
11	30	3.3	3	0.3
12	30	3.6	3	0.6
13	30	3.9	3	0.9
14	30	4.2	4	0.2

- 4.42 When calculating on-site affordable housing requirements on sites of 15 or more units, the Council will always round up or down to the nearest whole unit/habitable room. For developments of 5-14 units, the affordable housing contribution would comprise the on-site provision with a financial contribution where rounding results in partial units, as set out in Table 4 above. Developers/applicants are welcome to round up and provide an increased number of units on-site instead of a partial financial contribution.
- 4.43 The Council reserves the right to apply the policy using habitable rooms⁴⁰, where this helps to achieve a better mix of dwellings (please see Example C).

Example C - Calculation of affordable housing contribution using habitable rooms

- A development is proposed for 30 residential units (flats)
- This is made up of 10 one bedroom flats, 15 two bedroom flats and 5 three bedroom flats
- The number of habitable rooms across the development adds up to 55 bedrooms and 30 living rooms. This totals 85 habitable rooms.
- To meet the 40% affordable housing requirement the development would have to provide 34 habitable rooms as affordable (i.e. 40% of 85) and would be expected to provide a mix in accordance with the identified need set out in the most up-to-date SHMA

Transfer prices, management and nominations

- 4.44 In return for building the affordable housing units on site, a developer/applicant will agree and receive a payment from a Registered Provider (RP) for the affordable units. This will not be equivalent to the full market value of the property but will be at a discounted rate and will vary depending on the tenure of unit provided. Furthermore, the developer/applicant should ensure that these units are designed to the standard set out in paragraphs 4.26 and 4.27 above. This is to ensure that the units are not excessively large, as the RP's payment would reflect only the size of the affordable unit.
- 4.45 To avoid any unnecessary delays during the application process, the applicant/developer is encouraged to enter into early negotiations with an RP

⁴⁰ Habitable rooms include all rooms normally used for living or sleeping in and kitchens that have a floor area over 13 sqm. Habitable rooms over 20 sqm will be counted as two rooms. Bed sitting rooms will be counted as 1.5 habitable rooms. Small kitchens (13 sqm or less), utility rooms, halls, bathrooms, balconies, toilets, landings and garages are excluded. Any room above the ground floor level with an external window and with a floor area of 6.5 sqm or more capable of future conversion to a bedroom will be counted as a habitable room.

(prior to submission of the application) in order to agree the future transfer of the relevant units, their size, design and price. The name of the committed RP and the agreed transfer price will be included in the legal agreement to be signed prior to determination of the application.

- 4.46 Given the flexibility in charging rent levels, it is recommended that developers and landowners take account of the guidance on rent levels set out in Appendix 5⁴¹ and liaise with RPs prior to submitting any applications, to understand how the rent levels can impact on the price that RPs can offer to either purchase the affordable housing or to enter into a management agreement to run it.
- 4.47 The Council's preference is for the affordable housing to be transferred to a not-for-profit RP and managed as affordable housing in accordance with the guidelines set by Regulator of Social Housing⁴². In certain cases, where an applicant can demonstrate that none of the Council's preferred not-for-profit RPs (or any other not-for-profit RP operating in Elmbridge or neighbouring Boroughs) is willing to take the transfer of the affordable homes on the development site, then the Council will consider a transfer either to a for-profit RP or another body, approved by the Council's Housing Service, including EBC Homes Limited (the Council's wholly-owned housing company). A most up-to-date list of the Council's preferred RPs can be obtained at the pre-application or the application stages from the Council's officers.
- 4.48 The provision of affordable housing will be subject to a Nominations Agreement⁴³ between the Council and RP (or other such provider).
- 4.49 On any proposed Build to Rent schemes the Council accepts that it may not be appropriate for the affordable private rent element to be transferred to another party (RP or otherwise) and that the management of the scheme may be undertaken by one entity. In such a case, the Council may accept that the affordable housing may be owned and managed by a private organisation or organisations, but will require safeguards as to the quality of the management of the affordable element and will endeavour to enter into a nominations agreement with the managing agent with regards to the selection of tenants for the affordable element (or other measures to ensure that the affordable homes are meeting local identified housing needs).

⁴¹ Rents set out in the Broad Rental Market Area (South West London and Walton).

⁴² [gov.uk/government/organisations/regulator-of-social-housing](https://www.gov.uk/government/organisations/regulator-of-social-housing)

⁴³ A copy of the nominations agreement can be obtained from Council's Officers.

Processing applications supported by viability assessments

- 4.50 The applicants are expected to consider the overall cost of development, including the required planning obligations and any abnormal costs, prior to negotiating the sale or purchase of land or the acquisition or sale of an option.
- 4.51 When applicants consider that the contribution is disproportionate, the Council requests that the relevant information setting out scheme viability is submitted for independent assessment at the onset of the application.

Validation of applications supported by viability assessments

- 4.52 In the exceptional circumstances where it is considered that the delivery of affordable housing in accordance with the policy is unviable, this must be demonstrated through the submission of a financial appraisal alongside a planning application. The submission of a viability assessment is a local validation requirement⁴⁴ for planning applications. Once an application has been registered there will be no further opportunity to contend the viability of the development. If, following the registration of the application, the applicant wishes to dispute the viability, the application will need to be withdrawn and resubmitted.
- 4.53 The Council requires the applicant to pay for an independent review of the submitted viability information. The application will be registered only after the applicant confirms in writing that they would meet the viability review fee. If the payment is subsequently not received, the application will be determined without consideration of the viability information. In such cases, the Council will seek to recover any cost associated with the review of the viability information as part of the appeal process via the application for cost.

Publicity of viability assessments

- 4.54 The Council is committed to addressing the identified affordable housing need. To maintain the transparency and accountability of its decisions, the Council will publish all financial viability appraisals submitted as part of planning applications alongside other planning documents on its website.
- 4.55 If the applicant considers that there are exceptional circumstances for a withdrawal of any information within the viability assessment from a public disclosure, they have to make their case. The submitted justification will be considered in the light of the potential for the information to result in an adverse effect and harm to the public interest, and the reasons why this would not be outweighed by the benefits of disclosure in terms of the Environmental Information Regulations (EIR) and the Freedom of Information Act (FOIA). Such circumstances should be highlighted by the applicant at an early stage

⁴⁴ Please see the Validation Checklist at elmbridge.gov.uk/planning/requirements

as part of the pre-application process or in advance of registration of the application.

Consideration of viability

- 4.56 The viability of the schemes will be rigorously tested. The aim of the review is to establish whether a greater compliance with the affordable housing policy than that suggested by the applicant can be achieved taking into consideration any other necessary contributions due and the specific circumstances of the case.
- 4.57 The viability assessment has to be accompanied by a full working viability model (such as Argus Developer) and/or the assumptions and calculations included in the modelling. An executive summary that outlines the key inputs, findings, and conclusions should be provided as part of the assessment. To enable officers to vary assumptions and to test the conclusions, the model must not include any hidden calculations or other assumptions. The assessment should also include detailed evidence in support of the inputs and assumptions. Clarification and additional information might be requested from the applicant during the review process.
- 4.58 Potential risk of bringing forward development is accounted for in the level of return for developers. The Planning Practice Guidance confirms⁴⁵ that a profit of 15-20% of gross development value is usually a suitable return to developers. Due to the economic characteristics of the Elmbridge Borough and its geographic location in the South East of England, adjoining Greater London, residential development is not considered to pose a high risk to developers. Therefore, applicants will need to provide robust evidence to support proposed profit levels above 15%, detailing the site specific circumstances that would require a higher developer profit to offset the risk.
- 4.59 To ensure that the submitted information necessary to carry out the viability review is adequate, the applicants should observe guidance set out in the following documents, or their updated versions:
- Standardised inputs to viability assessment set out in the Planning Practice Guidance – please see Reference ID: 10-010-20180724 Paragraphs 010 – 020⁴⁶
 - Financial viability in planning: conduct and reporting, RICS (1st edition, May 2019)⁴⁷

⁴⁵ PPG Paragraph: 018 Reference ID: 10-018-20190509

⁴⁶ [gov.uk/guidance/viability#viability-and-decision-taking](https://www.gov.uk/guidance/viability#viability-and-decision-taking)

⁴⁷ [rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/building-surveying/financial-viability-in-planning-conduct-and-reporting-rics.pdf](https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/building-surveying/financial-viability-in-planning-conduct-and-reporting-rics.pdf)

- Financial viability in planning, RICS Professional Guidance, England (2012) - Appendix C: Indicative outline of what to include in a viability assessment⁴⁸ (or any updated version of this document)
- 4.60 If the Council is satisfied that affordable housing cannot be provided in accordance with the policy, it will seek to negotiate alternative provision. Where on sites of five and more homes a reduced affordable housing contribution is agreed at the application stage, a legal agreement should include the identified potential additional on-site affordable housing units. This is to allow for those units to be converted if necessary, following an early viability review.

Delivery of affordable housing and viability review mechanisms

- 4.61 To significantly boost the delivery of housing, including affordable housing, the Council will use the review mechanisms. The aim of these re-appraisal mechanisms is to secure the maximum public benefit over the period of a development. These mechanisms assist in addressing the economic uncertainties which could arise over the lifetime of the development schemes. The Council requires the applicant to pay for an independent review of the submitted viability information as part of any review mechanism.
- 4.62 For any development providing five and more homes the Council will secure trigger(s) for the review mechanisms through legal agreements to be agreed with applicants prior to grant of permission where deemed appropriate. The Council will use an early review to seek provision of additional on-site affordable housing; and a late review, taking into account the most robust data available in terms of the achieved sale prices/rental values and evidenced build cost, to test whether the level of financial affordable housing contribution could be increased up to the level, which meets the policy requirement.
- 4.63 The affordable housing requirements are applied where these are necessary to make the development proposal acceptable in planning terms. Therefore, review mechanisms are not to be used to reduce the base level of affordable housing contribution agreed as part of the planning permission. Only in the event of a new or modified planning permission, the previously agreed level of affordable housing contribution could be reconsidered.

Early Review Mechanism

- 4.64 To secure additional on-site affordable housing provision, developments of 5 units and more that do not provide a policy compliant affordable housing contribution at the application stage will be subject to an early review mechanism where deemed appropriate.

⁴⁸ [rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/financial-viability-in-planning-1st_edition-rics.pdf](https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/financial-viability-in-planning-1st_edition-rics.pdf)

- 4.65 A trigger for an early stage viability review would be clearly defined in the legal agreement signed prior to determination of the application. The trigger will require certain level of progress to be made typically within two years of the permission being granted. The timing and the level of progress will be based on the scale and complexity of the development scheme and might for example include a completion of ground works, or of the ground floor level of the building(s). Where the agreed level of development has been achieved within the agreed timescales, the early stage viability review will not be triggered.
- 4.66 Where the agreed progress is not achieved within the specified timescales, an Early Stage Viability Review will be triggered. On development schemes where the review is triggered, the review will take place at the point when the agreed level of progress is achieved, i.e. if the level of progress is achieved after 30 months instead of two years, the review will take place at the point of 30 months after the grant of permission.
- 4.67 The viability assessment will need to contain all information as indicated in paragraphs 4.57 to 4.59 above. If the result of the review confirms that any uplift to the previously agreed affordable housing contribution is viable, this should be accommodated on-site at this early stage. Where an uplift is insufficient to provide additional unit on-site, the surplus should be paid as a commuted sum prior to first occupation of the development.
- 4.68 The cap of the uplift contribution is represented by the policy compliant level of the affordable housing contribution depending on the scale and type of the development.
- 4.69 The Council will use a formula outlined in Appendix 6 to calculate the surplus affordable housing contribution as part of the early review mechanism.

Late Review Mechanism

- 4.70 All development proposals that do not provide the policy required level of affordable housing contribution at the application stage will be subject to a late review mechanism, which will be secured prior to grant of permission through a legal agreement.
- 4.71 The trigger for a late review mechanism would be at the point in time when 75 percent of homes are sold or otherwise, or otherwise as agreed by the Council. The review has to be carried out prior to disposal of the whole development by the developer to ensure enforceability of the review and of the potential additional affordable housing contribution. It is expected that at this late stage, any identified surplus would be provided in the form of a financial contribution.
- 4.72 The Council will use a formula outlined in Appendix 7 to calculate the surplus affordable housing contribution as part of the late review mechanism.

Vacant building credit

- 4.73 The Government's intention is to encourage a redevelopment of the previously developed land (brownfield land) comprising vacant buildings to enable the regeneration of existing sites rather than developing the greenfield sites. As such, a financial incentive in the form of a Vacant Building Credit (VBC) is set out in the NPPF⁴⁹.
- 4.74 The VBC is a financial credit equivalent to the existing gross floorspace of the relevant vacant building(s) to be brought back into lawful use or demolished and replaced by new building(s). The existing gross floorspace that is calculated in accordance with the GIA definitions⁵⁰ will be deducted from the new floorspace and the affordable housing contributions may be required for any increase in floorspace. For example, where a building with a gross floorspace of 7,500 sqm is demolished as part of a proposed development with a gross floorspace of 10,000 sqm, any affordable housing contribution should be a quarter of what would normally be sought.
- 4.75 The VBC does not apply where the vacant building has been abandoned. It was established in courts that in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as the condition of the property; the period of non-use; whether there is an intervening use; and any evidence regarding the owner's intention. This will be determined on a case-by-case basis. Furthermore, based on the intention of this policy, the Council will determine whether the VBC should be applied considering: whether the building has been made vacant for the sole purposes of re-development; and whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development⁵¹.
- 4.76 The Council will apply the VBC in line with the intention of policy and will ensure that it is not used to simply reduce the affordable housing contribution that is due from the development, as this would affect the Council's ability to meet its objectively assessed need.
- 4.77 The applicant will be required to demonstrate that the building(s) for which the VBC is claimed were not vacated for the sole purpose of redevelopment and had been vacant for a continuous period of five years prior to the submission of the application. Furthermore, evidence confirming that during that time the property was actively marketed for a minimum of two years at realistic prices will need to be submitted.
- 4.78 The applicants should be aware that by claiming the VBC, the Council will not be able to apply the CIL relief.

⁴⁹ NPPF 2019 - Paragraph 63.

⁵⁰ Please see Appendix 1 - The GIA definitions.

⁵¹ PPG paragraphs 026, 027 and 028 Reference ID: 23b-026-20190315.

Spending and monitoring

- 4.79 It is a key priority for the Council to increase the supply of affordable homes in Elmbridge Borough. Affordable housing contributions from small sites have enabled the Council to support the delivery of both new units and ensure the more effective provision of its existing stock and reducing under occupation, a key element of the NPPF.
- 4.80 The collected financial contributions are held in the Council's Affordable Housing Enabling Fund. Table 5 summarises spend from the Enabling Fund and the associated outputs, both in terms of additional affordable housing supply and making better use of the existing housing stock in the eight and a half years between April 2011 and September 2019. It shows that the Fund has directly contributed to the provision of 96 additional affordable homes (through a combination of new-build and acquisitions), whilst also supporting the better use of the existing social housing stock.
- 4.81 In addition to monies already spent, the Council has also committed a further £1,627,000 from the Enabling Fund which is projected to deliver another 20 additional affordable homes, as well continuing to support the Perfect Fit scheme with PA Housing, which helps to make best use of the existing social housing stock.
- 4.82 The Council is actively exploring opportunities with our Registered Providers and others to use the unspent contributions (and other capital held within its Affordable Housing Enabling Fund) to help meet the need for affordable housing within Elmbridge.
- 4.83 Furthermore, at an Elmbridge Borough Council meeting on 21 February 2018, the Council agreed to establish a Council-owned housing company (EBC Homes Ltd) with the aim of building homes to meet the needs of residents. The creation of this housing company opens up new opportunities for affordable housing to be developed in the Borough. EBC Homes Ltd. is initially focusing on developing Council-owned land and acquiring existing street properties.
- 4.84 Examples of the Council's recent work includes:
- 5 affordable homes being provided at Albemarle House in Thames Ditton having secured planning permission in January 2018 to convert the vacant office building to residential use. Works started in July 2018.
 - 5 affordable homes being provided through the redevelopment of Weybridge Hall having secured planning permission in April 2018 to convert the hall to a cinema and the upper floors to residential use. The delivery of the site is expected in late 2020/21.

Table 5: Summary of affordable housing delivery supported by financial contributions secured through Elmbridge Borough Council's planning policies (April 2011 to September 2019)

Scheme	Units delivered / under construction / released	Total spend from Enabling Fund (actuals)	Average contribution per unit from Enabling Fund
Intermediate affordable – acquisitions (Homeownership Assistance Scheme)	47	£1,757,592	£37,396
Rented affordable provision – acquisitions and new-build	44	£4,459,582	£101,354
Sub-total – additional supply	91	£6,217,174	£68,321
Making better use of affordable stock - Perfect Fit under occupation scheme (social rent / affordable rent)	169 households downsized & properties released for re-letting	£514,500	£3,044
Total	260	£6,731,674	£25,891

5. Other Planning Obligations

- 5.1 In addition to the planning obligations associated with the Thames Basin Heaths SPA and the affordable housing outlined above, in some cases there are other obligations necessary to make the development acceptable in planning terms and these will be secured on a case-by-case basis. Planning obligations could for example relate to specific restrictions on the use of land, occupancy or require further contributions to be made. Examples of such obligations are:
- financial contributions towards a provision of a car club;
 - contributions towards flood risk management schemes;
 - obligations under the S278 agreements;
 - contributions towards improved bus service provision; or
 - contributions for education⁵².

6. Appendices

Appendix 1 – Examples of CIL calculation and implementation scenarios

Appendix 2 – GIA definitions

Appendix 3 – Statement on affordable housing provision on small sites

Appendix 4 – Calculation of the AH financial contribution for 1 - 4 dwellings

Appendix 5 – Broad Rental Market Area rents

Appendix 6 – Formula to calculate the surplus affordable housing contribution for the early review mechanism

Appendix 7 – Formula to calculate the surplus affordable housing contribution for the late review mechanism

⁵² Please see the published guidance at [gov.uk/government/publications/delivering-schools-to-support-housing-growth](https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth)

Appendix 1

CIL implementation/charging scenarios

The consideration of the scenarios below is valid at the time of adoption of this SPD and is subject to any future changes to the Regulations¹. The most up-to-date CIL guidance is available in Planning Policy Guidance Reference ID: 25-104-20190901².

1. Effect of a S73 application on the CIL liability.

A planning consent can be amended under section 73 of the Town and Country Planning act 1990.

- If the proposal under S73 does not change the liability to the levy, the chargeable amount remains unchanged from that set out in the most recent liability notice issued in relation to the previous permission.
 - If the proposal under S73 does change the levy liability, the most recently commenced or re-commenced scheme is liable for the levy. CIL payments made in relation to the previous planning permission are offset against the new liability, and a refund or an additional payment is due.
2. Demolition of existing “in-use” building/part of a building is proposed as part of development.

The area of a relevant in-use building to be demolished before completion of the development may be taken as a credit against the CIL liability.

An in-use building is one that contains a part that has been in lawful use for a continuous period of at least six months within the last three years ending on the day planning permission first permits the chargeable development

A relevant building means a building which is situated on the relevant land on the day planning permission first permits the chargeable development.

If the proposed new build is 100sqm or more, the levy is due.

¹ The Community Infrastructure Levy Regulations 2010 (as amended).

² [gov.uk/guidance/community-infrastructure-levy](https://www.gov.uk/guidance/community-infrastructure-levy)

Appendix 2

Gross Internal Area (GIA) definitions

Including:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access (if provided as part of new development)
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms, and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Pavement vaults
- Garages
- Conservatories
- Areas with a headroom of less than 1.5m

Excluding

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential
- Mezzanine inserted into an existing building
- Areas with a headroom less than 1.5m for warehouses, variety stores, food stores and many specialist buildings valued by reference to building costs (as assessed by the Valuation Office Agency)

Appendix 3 - Statement on the Government's National Planning Policy Framework (NPPF) (2018) – Affordable Housing Provision on Small Sites

November 2018

1 Introduction

- 1.1** On 24 July 2018, the Government published its revised National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these should be applied both for plan-making and decision-taking. In terms of decision-taking i.e. in the consideration of planning applications, the NPPF is a material consideration for which appropriate weight should be applied.
- 1.2** In regard to affordable housing, detailed policies are set out in Chapter 5: Delivering a sufficient supply of homes. The focus of this Statement is paragraph 63 of the NPPF which states that the provision of affordable housing should ***'not be sought for residential developments that are not major development, other than in designated rural areas'***.
- 1.3** The publication of the NPPF introduces a conflict with the Council's approach to affordable housing provision as set out in Policy CS21 'Affordable Housing' of the adopted Elmbridge Local Plan: Core Strategy (July 2011).
- 1.4** The purpose of this Statement is therefore to outline the Council's position on the NPPF and how it intends to take forward decisions where there is a conflict between local and national policy. This Statement does not introduce new policy.
- 1.5** This Statement was endorsed and agreed for publication on 12 October 2018, by the Portfolio Holder for Planning Services, Councillor James Browne on behalf of the Council.

2 Policy Context

- 2.1** Paragraph 63 of the NPPF states that the provision of affordable housing should not be sought for residential developments that are not major development, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). Elmbridge Borough is not a designated rural area and major development sites are defined in the NPPF as development of 10 or more homes, or if the site has an area of 0.5 hectares or more.
- 2.2** The Government's approach to small sites and affordable housing provision follows that set out in its Written Ministerial Statement (WMS) (28 November 2014) and subsequent changes to Planning Practice Guidance (PPG) dated 19 May 2016, both relating to the exemption of small sites from planning contributions and the Vacant Building Credit (VBC).

- 2.3** The Council's approach to affordable housing provision is set out in Policy CS21 of the Local Plan: Core Strategy (July 2011). The policy establishes that the Council will seek contributions for affordable homes on all development where there is a net increase in residential units. The level of contributions varies according to the number of dwellings proposed. In regard to developments of fewer than 10 dwellings, the Council's approach, as set out in Policy CS21 is:
- A financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1-4 dwellings;
 - 20% of the gross number of dwellings on sites of 5 dwellings; and
 - 30% of the gross number of dwellings on sites of 6 – 14 dwellings.
- 2.4** In accordance with the NPPF, Policy CS21 makes clear that the application of the above thresholds and percentages is subject to financial viability. The policy is supported by the Council's Developer Contributions Supplementary Planning Document (SPD) (February 2012) which provides specific details of the negotiation process if non-viability can be robustly demonstrated.
- 2.5** Forming part of the Core Strategy, the drafting of Policy CS21 has been carefully considered by Officers and has been subject to close and extensive Councillor involvement; various rounds of public consultation; and considered by a Planning Inspector at the Examination in Public (EiP) of the Local Plan: Core Strategy. In addition, the Policy is underpinned by a Viability Study. The Developer Contributions SPD was also prepared and adopted following careful consideration of the evidence base and having been subject to close and extensive Councillor involvement, and public consultation including discussions with the development industry.

3 Consideration of the NPPF

- 3.1** As set out in Section 38(6) of the Planning and Compulsory Act 2004¹, the starting point for any decision is the Development Plan unless any material consideration(s) indicate otherwise. This point is acknowledged in paragraph 2 of the NPPF as a matter of planning law. Therefore, whilst the NPPF is clear in regard to the Government's intentions on planning obligations in relation to small sites, the weight to attach to a policy within the Development Plan and to other material considerations, in a given set of circumstances, is a matter of discretion for the decision taker.
- 3.2** In addition, whilst new national policy may affect the weight to which to attach to any conflict between national and local policy it cannot remove that conflict. As such, the conflict between Policy CS21 and the NPPF still requires the decision taker to assess the weight it attaches to both sides of that conflict, as well as other material considerations. Ultimately it is for the Local Planning Authority, in the first instance to decide on each relevant application whether there are sufficient local circumstances to allow the implementation of Policy CS21. Should the Council's decision be appealed, it then becomes that decision of the Planning Inspectorate. The local circumstances that the Council considers relevant to Elmbridge Borough are set out below.

¹ legislation.gov.uk/ukpga/2004/5/section/38

4 Affordable Housing Need

- 4.1** The Council's latest assessment of housing need is set out in the Kingston & North-East Surrey Strategic Housing Market Assessment (SHMA) (2016)². The SHMA identifies that the annual affordable housing need in Elmbridge Borough is for 458 gross dwellings. Consisting mostly of concealed and newly forming households unable to buy on the open market, the net annual need for affordable homes (taking account of potential supply e.g. new builds and re-lets) is for 332 dwellings per annum (6,640 net units across a 20-year period up to 2035).
- 4.2** Putting the level of affordable housing need into context, over the last seven monitoring years (2011/12 – 2017/18) 1,848 additional homes (both market and affordable) have been added to the housing stock (on average 264 per annum)³. Therefore, to meet the affordable housing need of 332 dwellings per annum (2,324 dwellings over a seven-year period), the entirety of all new residential development that has occurred per annum since 2011/12 would need to be affordable plus an additional 68 units per annum⁴.
- 4.3** The challenge to provide the required level of affordable housing within the Borough is also highlighted when compared to the percentage of the housing stock that is social rented (10%) and shared ownership (0.7%) and affordable housing completions. The Council's latest monitoring information (at August 2018) shows that in the last reporting year (2017/18), 28 new affordable housing units were completed; a 92% shortfall against the annualised need.
- 4.4** In addition, the Council considers the Government's Standardised Methodology for calculating housing need⁵ as an indicator of affordable housing need within the Borough. The associated data table identifies the annual housing need in Elmbridge Borough as 612 dwellings between 2018/19 and 2028/29. Based on household formation rates within the Borough, the housing need is for 436 dwellings per annum over the 10-year period. However, in accordance with the proposed methodology and the Government's aim of increasing affordable housing provision, this is significantly increased by 747 dwellings per annum based on affordability ratios prior to a 40% cap being placed on the uplift.

4 House Prices & Affordability Issue

- 4.1** The cost of housing in the UK and its impact on local people is a key concern for most local authorities, ranking higher than long-held concerns on health and social care services. Whilst high house prices and subsequent affordability issues are not particularly unique when it comes to the South-East; with most areas now becoming 'unaffordable' to the first-time buyer, the region is becoming increasingly polarised with house prices ranging from nearly £759,000 in Elmbridge Borough compared to just over £208,000 in Gosport.
- 4.2** Average (mean) house prices in 2016/17 in Elmbridge Borough are exceptionally high, amongst the highest in the country and, as prices continue to rise, are now 2.6 times that of

² Kingston & North-East Surrey Strategic Housing Market Assessment (SHMA) (2016) - elmbridge.gov.uk/planning/sdps/evidence-and-supporting-docs

³ Elmbridge Authorities' Monitoring Report (AMR) 2016/17 plus know net completions for 2017/18 as at August 2018 -

⁴ This would be at a minimum on the basis that all new homes were provided by a registered provider. If any of our affordable housing need was to be met as a percentage of market developments, then housing delivery would need to be more than 332 dwellings per annum.

⁵ Ministry of Housing, Communities and Local Government – Planning for the right homes in the right places: consultation proposal gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals

the national average. In addition, when compared to the South East and Surrey averages (mean), house prices in Elmbridge Borough are now double the South East average and one and a half times that of the Surrey average. Continued increases in house prices in Elmbridge Borough show that the area is becoming increasingly expensive and at a quicker rate than most areas. For example, over the last decade (2007 – 2017), house prices have increased by 54% in comparison to the England average of 38%.

- 4.3** According to the National Housing Federation (HBF) (Home Truths 2017/18⁶), the average house price in Elmbridge Borough is now in the region of £759,000, making the Borough the most difficult place in the country outside of London to get a step on the property ladder where average wages, house prices and limited ability to save for a deposit collide to price out would-be homeowners. As set out in Table 1, Elmbridge Borough had the 9th highest average (mean) house price across the entirety of England in 2016/17, with the 8 other Local Authority areas all being in London.

Ranking	Local Authority	Region	Average (mean) house price	Mean annual earnings in 2017	Ratio of house prices to incomes	Income required for 80% mortgage (80% at 3.5x)
1	Kensington & Chelsea	London	£1,983,779	£70,496	28.1	£435,435
2	Westminster	London	£1,610,474	£55,266	29.1	£368,109
3	Camden	London	£1,027,351	£42,552	24.1	£234,823
4	Hammersmith & Fulham	London	£937,157	£43,347	21.6	£214,207
5	City of London	London	£933,478	£57,689	16.2	£213,366
6	Wandsworth	London	£788,501	£44,658	17.7	£180,229
7	Richmond upon Thames	London	£781,260	£47,970	16.3	£178,574
8	Islington	London	£760,315	£42,916	17.7	£173,786
9	Elmbridge	S. East	£759,635	£40,461	18.8	£173,631

Table 1: Highest average mean house price across the entirety of England in 2016/17 (HBF)

- 4.4** Whilst average annual mean incomes in Elmbridge in 2017 reached £40,461, which is well above the averages for Surrey (£37,248); the South East (£30,914); London (£35,610) and England (£28,444), due to exceptionally high house prices, the average household income required to obtain a mortgage at 80% was £173,361 (80% at 3.5x). The level of average income required is double that required in the South East and across England in general (£88,520 and £66,034 respectively) and between £39,676 and £55,362 higher than across Surrey (£117,999) and London (£133,685).
- 4.5** Whilst the annual average mean income of Borough residents is amongst the highest in England, the HBF has identified that due to high average mean house prices, the ratio of house prices to income (often referred to as the ‘affordability’ ratio) is 18.8. Again, this is on par with the levels experienced in London with, Elmbridge Borough having the 6th highest affordability ratio in England (in addition to those London Boroughs set out in Table 1, the London Borough of Hackney has an affordability ratio of 19.7).
- 4.6** In terms of accessing the property market in Elmbridge Borough, it is most likely that first time buyers will be looking towards house prices in the lowest quartile⁷ i.e. it is unlikely that they

⁶ National Housing Federation – Home Truths 2017/18 -housing.org.uk/resource-library/home-truths

⁷ Lower quartile - when a series of values are arranged by order of magnitude the lower quartile (or 25th percentile) is the value that splits the lowest 25 per cent of the data from the highest 75 per cent.

would seek to purchase / obtain a mortgage on a detached property where the average price is over £1m. It is therefore important to also look at affordability issues in the Borough in the context of lowest quartile house prices and lowest quartile earnings. As shown in Table 2, data from the ONS⁸ identifies the lowest quartile house price in Elmbridge Borough was £342,000 in 2015 compared to the lowest quartile earnings of Elmbridge residents of £23,436. In terms of the lowest quartile house prices, Elmbridge Borough experienced the highest levels outside of London and 11th highest across England and Wales including London Boroughs.

4.7 In terms of the lowest quartile house / incomes affordability ratio for Elmbridge Borough (14.59) this is 16th highest experienced across England and Wales. Once again, the affordability ratio for Elmbridge Borough sits alongside those experienced in London Boroughs as well as St Albans (15.00) and South Bucks (14.90), both in the South East.

Ranking	Local Authority	Region	Lower quartile house price	Lower quartile annual earnings	Affordability Ratio
1	Kensington & Chelsea	London	£715,000	£22,482	31.80
2	City of London	London	£626,250	£35,860	17.46
3	Westminster	London	£579,340	£27,314	21.21
4	Hammersmith & Fulham	London	£499,999	£26,039	19.20
5	Camden	London	£475,000	£27,015	17.58
6	Islington	London	£425,000	£26,649	15.95
7	Wandsworth	London	£415,520	£23,537	17.65
8	Hackney	London	£350,000	£22,078	15.85
9	Lambeth	London	£350,000	£25,771	13.58
10	Southwark	London	£345,175	£26,494	13.03
11	Elmbridge	S. East	£342,000	£23,436	14.59

Table 2: Ratio of lower quartile house price to lower quartile annual earnings, England & Wales, 2015 (HBF)

4.8 From the data and information set out above, the Council is aware that for most first-time buyers and even those already established on the housing ladder, opportunities of finding an 'affordable' home within Elmbridge Borough are limited. In most local authority areas experiencing similar issues, the private rented market can offer a suitable alternative. However, as evidenced by the HBF, mean monthly private sector rents in 2016/17 are still beyond most individuals' and households' earnings. Data from the HBF shows mean monthly private sector rents in Elmbridge Borough are £1,810, the highest-level experienced outside of London. Again, these rates are higher than the Surrey and South East averages (£1,343 and £994 respectively) and are comparable to London Boroughs. Following the trend of mean house prices, Elmbridge Borough in 2016/17 experienced the 9th highest private rental levels in England behind those London Boroughs listed in Table 1.

⁸ The Office for National Statistics (ONS) – Ratio of house price earnings to (lower quartile and median) by local authority district, England and Wales, 1997 to 2015 (Table 5) - ons.gov.uk/peoplepopulationandcommunity/housing/adhocs/006557ratioofhousepricetoearningslowerquartileandmedianbylocalauthoritydistrictenglandandwales1997to2015 (Released date: 19 January 2017)

The Valuation Office Agency (VOA)⁹ also provides data and information on the private rental market. Data published June 2018, identifies that the lowest quartile monthly rents for all properties recorded between 1 March 2017 and 31 April 2018, in Elmbridge Borough was £1,000; falling within the top 10% of authorities within the highest lowest quartile monthly rents. Again, the lowest quartile monthly rents experienced in Elmbridge are on-par with London Boroughs (in particular Outer London) and similar to other South East areas on the edge of London e.g. Epsom & Ewell, Hertsmere and Three Rivers (See Figure 1).

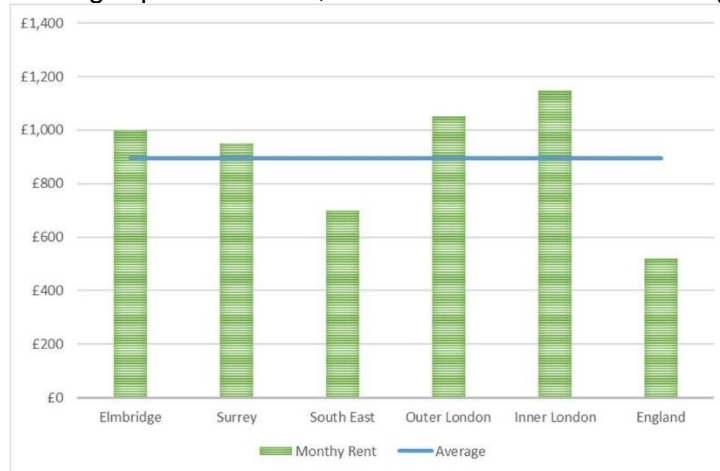


Figure 1: Comparisons of lowest quartile monthly rents for all properties recorded between 1 March 2017 and 31 April 2018 (VOA)¹⁰

4.9 As set out in Table 3, data from the VOA identifies that lowest quartile private rents have generally increased in Elmbridge Borough over the last 5 years (2013 – 2018). The rent for a ‘room’¹¹ seeing the largest percentage increase in monthly rent from £400 - £550 (a 38% increase). Besides the lowest quartile private rent for a 4+ bedroom unit, all property types have seen an increase in monthly cost between 2013 and 2018.

	2013 - 14 ¹²	2014 - 15 ¹³	2015 - 16 ¹⁴	2016 - 17 ¹⁵	2017 - 18 ¹⁶	% Change 2014 - 18
Room ¹ 7	£400	£550	£550	£485	£550	38%
Studio	£613	£600	£625	£675	£650	6%
1-bed	£775	£825	£850	£855	£855	10%
2-bed	£950	£1,000	£1,050	£1,050	£1,100	16%
3-bed	£1,250	£1,300	£1,377	£1,400	£1,395	12%
4+ bed	£2,340	£2,400	£2,400	£2,450	£2,300	-2%
All properties	£900	£883	£1,000	£1,000	£1,000	11%

Table 3 – Annual lowest quartile monthly rents for all property types in Elmbridge Borough between 2013 and 2018 (VOA)

⁹ Valuation Office Agency (VOA) – Official Statistics, Private rental market summary statistics – April 2017 to March 2018 - gov.uk/government/statistics/private-rental-market-summary-statistics-april-2017-to-march-2018

¹⁰ The average depicted in Figure 1 is that of the areas shown within the chart.

¹¹ VOA – definition of a ‘room’ - a non-self-contained single room with shared facilities. Includes bedsits, single rooms in a house or flat shared with other tenants, and single rooms rented from a resident landlord.

¹² For the period 1 April 2013 – 31 March 2014.

¹³ For the period 1 October 2014 – 30 September 2015.

¹⁴ For the period 1 October 2015 – 30 September 2016.

¹⁵ For the period 1 April 2016 – 31 March 2017.

¹⁶ For the period 1 April 2017 – 31 March 2018.

6 The Importance of Small Sites

- 6.1** The Government continues to prioritise the delivery of new housing on brownfield sites. This approach is supported in the Council's Core Strategy and emerging Local Plan, and the vast majority of housing that has come forward in the Borough since the adoption of the Core Strategy has been on previously developed land. However, within Elmbridge Borough a significant proportion of the sites that are granted planning permission are very small in comparison to those found in more urban areas, and especially those London Boroughs facing similar affordability issues.
- 6.2** Between 1 August 2011 (when all relevant applications registered and determined after this date where required to be considered against Policy CS21) until 31 July 2018, 1,286 gross¹⁸ units have been granted planning permission on sites of fewer than 10 units and where there has been a net¹⁹ increase²⁰. As set out in Table 4, during the period 1 August 2011 – 31 July 2018, on average 46% of units approved were on schemes of 1 – 9 gross units; accounting for 1,286 new units. In some years (2011/12 and 2014/15) the proportion of total units approved that came from small sites was 100% with the median average²¹ across the monitoring period (2011 – 2018) at 67%.
- 6.3** Of further interest is that Table 4 also shows that during the period 1 August 2011 – 31 July 2018, 94% of planning applications granted planning permission were for developments of fewer than 10 gross units. During the monitoring period (2011 – 2018), this equated to 546 applications out of a total of 580.

Year of approval	No. of units – fewer than 10 units	% of total units – fewer than 10 units	No. of app – fewer than 10 units granted planning permission	% of total app – fewer than 10 units granted planning permission	No. of units – 10 units or more (gross)	% of total units – 10 units or more (gross)	No. of app – 10 units or more (gross) granted planning permission	% of total app – 10 units or more (gross) granted planning permission	Total units (gross)	Total app.
2011/12 ²²	23	100%	13	100%	0	0%	0	0%	23	13
2012/13	100	67%	49	96%	52	33%	2	4%	150	51
2013/14	151	69%	65	94%	67	31%	4	6%	218	69
2014/15	181	100%	89	100%	0	0%	0	0%	181	89
2015/16	189	22%	85	89%	652	78%	10	11%	841	95
2016/17	285	67%	107	95%	142	33%	6	5%	427	113
2017/18	243	42%	94	91%	334	58%	9	9%	577	103
2018 ²³	114	31%	44	92%	250	69%	4	8%	364	48
Total	1,286	46%	546	94%	1,497	54%	35	6%	2,783	581

Table 4: Gross dwellings and number of applications granted planning permission by scheme size, 2011 – 2018.

¹⁸ Gross dwellings – is the total number of new units on a site not taking account of any dwellings demolished

¹⁹ Net dwellings – refers to the number of new dwellings being created minus any existing dwellings lost through demolition for example.

²⁰ Information taken from the Council's residential monitor.

²¹ Median average – is the "middle" value in the list of numbers when listed in numerical order from smallest to largest.

²² Data is from the date of the implementation of Policy CS21 (1 August 2011) up to 31 March 2012.

²³ Date is from 1 April 2018 up to 31 July 2018.

- 6.4** The Council's monitoring information also shows that of the 581 applications registered and determined after 1 August 2011 up until 31 July 2018, 558 have a recorded site area. Of these, 525 development schemes were on sites of less than 0.50 hectares (96%). The average site size of all developments on less than 0.50 hectares being 0.11 hectares.

7 Planning Applications & Appeals

Planning Applications

- 7.1** The Council started to apply Policy CS21 to all relevant planning applications registered for determination from 1 August 2011. From this date up until 31 July 2018, 581 applications have been granted permission where Policy CS21 has been considered. Of these applications:
- 495 related to the provision of 1 – 4 gross units whereby Policy CS21 would require a financial contribution equivalent to providing 20% of the gross number of dwellings as affordable;
 - 19 related to the provision of 5 gross units whereby Policy CS21 would require 20% of the gross number of dwellings on-site as affordable;
 - 40 related to the provision of 6 – 14 gross units whereby Policy CS21 would require 30% of the gross number of dwellings on-site as affordable and any 'part units' would require an affordable housing contribution; and
 - 27 related to the provision of 15 gross units or more whereby Policy CS21 would require 40% of the gross number of dwelling on-site as affordable.
- 7.2** Of the 581 planning applications, 545 development schemes (94%) applied to sites of fewer than 10 units – the Government's threshold for major developments. From these applications 61 affordable housing units have been provided on-site. Nevertheless, this is a reduction in the number of affordable housing units required on-site as, in accordance with Policy CS21, viability has been taken into account. Hence, on 16 development schemes the on-site requirement for affordable housing provision has been waived entirely (4 development schemes) or reduced (12 development schemes). On a further 3 development schemes affordable housing provision was not required due to the changes to PPG and WMS (see Section 8 for further details).
- 7.3** It is important to note however, that even on the 12 development schemes where the on-site affordable housing contribution was reduced, £1,233,687 was still collected as a financial contribution for either the payment of a 'part-unit' or in lieu of on-site provision.
- 7.4** Focusing on financial contributions and sites of 1-4 units, of the 495 development schemes granted permission:
- 65 development schemes related to Prior Notifications whereby the Council is unable to apply Policy CS21;
 - 2 development schemes applied Vacant Building Credit and thus in accordance with Government policy were not required to make a contribution towards affordable housing;
 - 56 development schemes were granted permission between 28 November 2014 and 31 July 2015 whereby due to the WMS the Council was unable to collect financial contributions from small sites²⁴;

²⁴ See Section 8 for further details.

- 11 development schemes were granted permission on appeal whereby the Planning Inspectorate gave greater weight to the changes to PPG and WMS than Policy CS21²⁵;
- 5 development schemes were granted permission in error without securing a S106 agreement for affordable housing; and
- 1 development scheme was granted permission as part of a superseded application that had already commenced and paid the contribution towards affordable housing.

7.5 Discounting the above applications, the Council has determined 354 applications whereby Policy CS21 has been applied to sites of 1-4 gross units. Of these:

- 58 development schemes (16%) have had the affordable housing contribution waived due to financial viability. For 12 development schemes the amount that should have been payable is noted; totalling approximately £890,000;
- 32 development schemes (9%) have had the affordable housing contribution reduced due to financial viability. For 26 development schemes the amount that should have been payable is noted; totalling approximately £2.9 million. Instead however, approximately £780,000 has been committed (a reduction of approximately £2.1 million; 72%); and
- 264 development schemes (75%) have committed to pay the full amount of affordable housing contribution required. From these development schemes the amount of financial contributions that has been secured through S106 agreements is approximately £16.5 million²⁶.

7.6 Of the 264 applications having agreed to pay the affordable housing contribution in full in accordance with Policy CS21, the average amount agreed is £62,382. The lowest amount agreed to be paid is £5,638 (for 1 additional dwelling in Thames Ditton with a total Gross Internal Area (GIA) of 95 sqm (application 2016/4162)). The highest amount agreed to be paid is £260,481 (for 4 gross 2 net dwellings in East Molesey with a total GIA of 2,284 sqm (application 2015/2479)).

7.7 Examples of the amount of affordable housing contributions being agreed under Policy CS21 are set out in Table 5. Those presented have been selected as they show that affordable housing contributions are being agreed across a range of sites e.g. from across the Borough's settlement areas; providing different numbers of gross and net units; and providing varying total Gross Internal Areas (GIAs).

Application No.	Settlement Area	Gross Units	Net Units	Total GIA	Total Affordable Housing Contribution
2016/2033	Claygate	2	2	352	£115,936.65
2017/3850	Cobham & Oxshott	4	3	152	£171,574.38
2015/4561	Dittons	4	4	860	£197,345.56
2016/0277	Esher	1	1	53	£29,680.21
2017/0160	Hersham	1	1	47	£24,937.87
2015/2479	Molesey	4	2	2284	£260,481.82
2017/0424	Walton on Thames	3	2	346	£79,473.10
2017/3269	Weybridge	1	1	60	£49,888.53

Table 5: Selected Affordable Housing Contributions required and agreed under Policy CS21

²⁵ See paragraphs 7.8 – 7.10 for further details

²⁶ This includes an element of late payment interest

Planning Appeals

- 7.8** Since the changes to PPG and up to 1 August 2018, the Planning Inspectorate has issued 58 planning decisions where affordable housing issues were considered as part of the appeal process. Of the 58 decisions issued, in 43 appeals (74%), Planning Inspectors have agreed with the Council's continued application of Policy CS21, whereas in 15 appeals (26%) the Planning Inspectors have given more weight to the Government's WMS and changes to PPG (now embedded in the revised NPPF). The details of these are set out in Appendix 1.
- 7.9** In the 15 appeals where Planning Inspectors considered affordable housing payments were no longer appropriate, the main reason given was that the PPG / WMS was the clearest and most recent expression of national planning policy which states that affordable housing contributions from small scale development should not be sought. Limited or no reference was made to previous Council Statements as a material consideration and how this had been balanced against the weight given to the WMS and PPG. Furthermore, these decisions were either made early on after the introduction of the WMS and PPG or, for a period, where Inspectors considered the Council's affordable housing policy carried less weight in light of the lack of 5 year housing land supply²⁷.
- 7.10** In the 43 appeals where Planning Inspectors have agreed with the Council's approach and determined that local circumstances and Policy CS21 carries more weight than the PPG and WMS, the general consensus in these decisions was as follows:
- The effect of the national policy in the WMS is that it would normally be inappropriate to require any affordable housing below the thresholds stated. Nevertheless, whilst there is a presumption that a policy such as a WMS should be followed, especially as it postdates the Core Strategy, it is also important to acknowledge that a policy that is relevant to the matter in hand should not be applied rigidly or exclusively when material considerations may indicate an exception may be necessary;
 - The view of the Council that it is for the decision taker to weigh any conflict between relevant policies in light of material considerations, including local circumstances, is agreed;
 - Whilst the WMS carries considerable weight, it does not necessarily outweigh the Development Plan given the acute and substantial need for affordable housing in the Borough and the importance of delivery through small sites towards this;
 - There has been a lack of substantive evidence being submitted by appellants showing that the application of Policy CS21 is placing an unreasonable or disproportionate burden on developers of small-scale schemes. Moreover, appellants have not provided anything that leads to the conclusion that viability is an issue; and
 - Whilst the Council does not have a 5-year housing land supply, Policy CS21 is not a policy 'for the supply' of housing and is therefore not out of date. Furthermore, the Council needs to comply with both the Government's policy on delivering development on previously developed land and continue to deliver affordable units as required under paragraph 50 of the NPPF (2012).
 - It is also has been concluded that the affordable housing contribution sought satisfies the two tests in Regulation 122(2) of the Community Infrastructure Regulations 2010 and paragraph 204 of the NPPF (2012).

²⁷ The Council's lack of 5 year housing land supply and implications in regard to Policy CS21 is set out in Section 12 of this Statement

The implications of the Government's PPG & WMS

8.1 During the period when the Government's Written Ministerial Statement (WMS) was first introduced (28 November 2014) until the 31 July 2015 when the High Court handed down judgement in *West Berkshire Council vs SSCLG* [2015], the Council was unable to seek contributions towards the provision of affordable housing through the provisions of Policy CS21 in regard to sites of less than 10 units. During this period, planning permission was granted on 61 development schemes²⁸ whereby Policy CS21 would have required:

- 56 development schemes to provide a financial contribution towards affordable housing equivalent to 20% provision on-site;
- 2 development schemes that would have required 20% of the total units as affordable; and
- 3 development schemes that would have required 30% of the total units as affordable and a contribution towards affordable housing from a 'part-unit'.

8.2 As a result of the WMS, the Council was unable to seek to collect approximately £3.57 million in financial contributions and require the provision of 6 affordable housing units on-site.

9 Viability

9.1 As set out in Section 2 of this Statement, a Viability Assessment was undertaken to support the drafting of Policy CS21. However, in accordance with Government policy and guidance the Council acknowledges the importance of ensuring that viability does not compromise sustainable development and that policy requirements, such as affordable housing and infrastructure needs, are set at a level that allows for the planned types of sites and development to be delivered.

9.2 As part of the new Local Plan the Council will be reviewing its Viability Assessment in light of potential development sites and infrastructure needs. However, to support the continued implementation of Policy CS21, the Council asked its consultants (DixonSearle Partnership) (DSP) to review the approach to seeking affordable housing contributions on sites of fewer than 10 units²⁹.

9.3 The outcome of this review was that the analysis of viability has been demonstrated that contributions to affordable housing from sites with fewer than 10 units are viable in principle alongside the Community Infrastructure Levy (CIL) rates.

10 Utilising Monies Collected

10.1 It is a key priority for the Council to increase the supply of affordable homes in Elmbridge Borough. Affordable housing contributions from small sites have enabled the Council to support the delivery of both new units and ensure the more effective provision of its existing stock and reducing under occupation, a key element of the NPPF.

²⁸ The 61 development schemes exclude a further two applications that were duplicates for the same sites.

²⁹ Small Sites Affordability Housing Provision Policy CS21 Supporting Viability Report.
elmbridge.gov.uk/planning/local-plan

10.2 Financial contributions collected are held in the Council's Affordable Housing Enabling Fund. Table 6 summaries spend from the Enabling Fund and the associated outputs, both in terms of additional affordable housing supply and making better use of the existing housing stock in the eight years between April 2011 and March 2018. It shows that the Enabling Fund has directly contributed to the provision of 68 additional affordable homes (through a combination of new-build and acquisitions), whilst also supporting the better use of the existing social housing stock.

Scheme	Units delivered / under construction / released	Total spend from Enabling Fund (actuals)	Average contribution per unit from Enabling Fund
Intermediate affordable – acquisitions (Homeownership Assistance Scheme)	42	£1,523,973	£36,285
Rented affordable provision – acquisitions and new-build	26	£1,404,485	£54,019
Sub-total – additional supply	68	£2,928,458	£43,065
Making better use of affordable stock - Perfect Fit under- occupation scheme (social rent / affordable rent)	147 homes released	£519,000	£3,531
Total	215	£3,447,458	£16,035

Table 6: Summary of affordable housing delivery supported by financial contributions secured through Elmbridge Borough Council's planning policies (1 April 2011 to 31 March 2018)

10.3 In addition to monies already spent, the Council has also committed approximately £770,000 to support the continuation of both the Elmbridge Homeownership Assistance³⁰ and Perfect Fit³¹ schemes whilst also funding an increase in supported housing provision within the Borough.

10.4 Furthermore, at an Elmbridge Borough Council meeting on 21 February 2018, the Council agreed to establish a Council-owned housing company with the aim of building homes to meet the needs of residents. The creation of this housing company opens up new opportunities for affordable housing to be developed in the Borough. The company is initially focusing on developing Council-owned land and acquiring existing street properties. It is envisaged that the new company will start planning for development in 2018/19; taking ownership of around 15 homes.

10.5 Examples of the Council's recent work includes:

- 5 affordable homes being provided at Albemarle House in Thames Ditton having secured planning in January 2018 to convert the vacant office building to residential use. Works started in July 2018.

³⁰ Homeownership Assistance scheme – the Council supports Catalyst Housing to run the Elmbridge Homeownership Assistance Scheme, which gives aspiring homeowners and who are priced out of the market, a route to purchasing a home of their own. The scheme offers equity loans of up to £90,000 to qualifying households towards the cost of purchase. 39 households have been helped through this scheme since 2011 (as at March 2018).

³¹ Perfect Fit scheme – with Paragon Housing the Council launched the Perfect Fit scheme in 2012 to encourage tenants in homes larger than they needed to downsize, thereby freeing up much-needed larger homes for families in need. Support and incentives of up to £4,000 have resulted in just under 150 households downsizing (as at March 2018).

- 5 affordable homes being provided through the redevelopment of Weybridge Hall having secured planning permission in April 2018 to convert the hall to a cinema and the upper floors to residential use.

11 Five Year Housing Land Supply

- 11.1** Forming part of the Planning Inspectorates' justification for not requiring some development schemes to provide a contribution towards affordable housing (see paragraph 7.3) was the issue of the Council not being able to demonstrate a 5 year housing land supply when assessed against the Objectively Assessed Housing Need (OAHN), as set out in the Kingston & North East Surrey SHMA, and the Government's draft Standardised Methodology. Policy CS21 was thus deemed by some Planning Inspectors as out of date and subsequently the presumption in favour of sustainable development was applied. That is to say that there was a policy presumption in favour of the grant of planning permission.
- 11.2** However, these decisions were generally issued prior to / around the time of the Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Supreme Court Decision (10 May 2017) which determined the meaning of 'relevant policies for the supply of housing'³². In summary, it was concluded that policies 'dealing only with the numbers and distribution of new housing' and not policies 'dealing generally with the disposition or restriction of new development' were relevant in the context of paragraphs 14 and 49 of the NPPF (2012).
- 11.3** In the case of the Elmbridge Local Plan only Policy CS2 'Housing Provision' was therefore determined as being out of date and hence the application of Policy CS21 continued to be applied where relevant, taking into account the weight to attach to a conflict with the policies of the Development Plan which affect the supply of housing, when performing that balance, in light of an overall shortfall in the supply of housing land. Again, the weight to be applied was determined by the decision-maker. In the Council's case this took into account:
- the degree of the housing shortfall;
 - the steps being taken to make up the shortfall;
 - the acknowledged constraints on meeting the OAN in Elmbridge Borough (e.g. Green Belt);
 - the important function of policy CS21 to meet paragraph 50 NPPF (2012); and
 - the local circumstances and evidence which justifies seeking contributions from schemes of 10 or fewer units notwithstanding the PPG and WMS.
- 11.4** In terms of 5 year housing land supply, the Council's position remains that, as required by paragraph 11 of the NPPF (2018), it is unable to identify sufficient housing land supply measured against both the OAHN as set out in the Kingston & North East Surrey SHMA and the Government's draft Standardised Methodology³³. As show in Figure 2 below, this means that 'the policies which are most important for determining the application are out-of-date' and that the presumption in favour of sustainable development should be applied unless, in the stated restricted circumstances (points d(i) and d(ii)).

³² Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Supreme Court Decision (10 May 2017) supremecourt.uk/cases/docs/uksc-2016-0076-judgment.pdf

³³ The Council is also unlikely to meet the requirements of the Housing Delivery Test as required by the NPPF.

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Figure 2: Abstract from paragraph 11 of the NPPF (2018)

- 11.5** Reference in paragraph 11 of the NPPF to 'policies which are most important for determining the applications' effectively negates part of the Supreme Court's decision in Suffolk Coastal and brings into play arguments as to what policies are determinative for the application and whether they are out of date. Again this is for the consideration of the decision-maker.
- 11.6** The Council will consider this point on a case by case basis taking into account the bullet points noted in paragraph 11.3 alongside other relevant policies set out in the NPPF (see Section 12 below). If it is considered that Policy CS21 is a policy which is most important for determining an application and, in the absence of a 5-year housing land supply (and requirements of the Housing Delivery Test), the policy will be deemed out of date and subsequently the titled balance will be applied.

12 Other NPPF considerations

- 12.1** As set out in paragraph 3 of the NPPF, the Framework should be read as a whole (including its footnotes and annexes). In this context, the following NPPF policies are also relevant in regard to the Council's continued application Policy CS21 on a case by case basis:
 - paragraph 59 of the NPPF which states that within the context of significantly boosting the supply of homes, 'it is important that a sufficient amount and variety of land can come forward where it is needed, **that the needs of groups with specific housing requirements are addressed** and that land with permission is developed without unnecessary delay' (Council's emphasis).
 - paragraph 61 which states '... the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing...'
 - paragraph 62 which states 'where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be on-site unless a) off-site provision or an appropriate financial contribution in lieu can be robustly justified...'
- 12.2** Furthermore, whilst relating to plan-making, paragraph 3 of the NPPF states that general reference to planning policies in the Framework should be applied in a way that is appropriate to the type of plan being produced, having regard to policy on plan-making in Chapter 3. In regards to developer contributions, chapter 3 of the NPPF (paragraph 43) states that a 'plan should set out the contributions expected from development'. This should

include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan’.

- 12.3** As set out in Section 9 of this Statement, a review of the viability evidence demonstrates that the application of Policy CS21 remains a realistic approach and that the principle of the policy does not undermine the overall viability of individual development schemes or the deliverability of the plan.

13 The approach of other Local Planning Authorities

- 13.1** Other Local Planning Authorities also continue to consider on a case by case basis whether local circumstances exist within their area to justify the collection of affordable housing contributions on small sites. Two such authorities neighbour Elmbridge Borough, namely the London Borough of Richmond upon Thames and Epsom & Ewell Borough Council. Others further afield include South Cambridgeshire District Council, the New Forest District Council, and the London Boroughs of Camden and Islington. All London Boroughs referred to above feature in Table 1 alongside Elmbridge Borough.

14 Conclusion

- 14.1** Without the ability to collect affordable housing contributions on small sites the Council will limit its capacity to support the delivery of affordable units in the Borough whether through onsite provision or using affordable housing contributions that support the delivery of affordable housing by other means e.g. the Affordable Housing Enabling Fund.
- 14.2** Policy CS21 has clearly not negatively impacted on development coming forward on small sites. As outlined above, it is evident that such sites remain a significant source of new housing within the Borough. The Council has ensured that the contributions collected on small sites are not disproportionate through a viability review of its approach (October 2018) and via the use of viability assessments on all developments where applicants consider the contributions to make the development unviable. This enables the Council to reduce or waive any contribution on the basis of viability in accordance with local and national policy.
- 14.3** The Council needs to comply with both the Government’s policy on delivering development on previously developed land and continue to deliver affordable units as required under paragraphs 59, 61 and 62 of the NPPF. To achieve this, the Council must consider on a case by case basis whether local circumstances with regard to affordable housing and the nature of the development sites in the Borough are sufficient to warrant the application of CS21 or whether greater weight should be attached to the NPPF.
- 14.4** The Council will therefore continue to consider Policy CS21 Affordable Housing as part of the decision making process for any relevant application. Where applicants consider that the charge is disproportionate the Council will request that the relevant information setting out scheme viability is submitted for independent assessment as set out in our Developer Contributions SPD.
- 14.5** Applicants will also be encouraged to set out why the application of Policy CS21 is considered to be disproportionate in relation to the applicant’s circumstances. All relevant evidence will then be considered on a case by case basis and be used to assess the weight to be attached to local and national policies.

Appendix 1 – Planning Appeal

Appeal decisions whereby the Planning Inspectorate has agreed with the Council's continuation to apply Policy CS21:

Information about the cases including copies of the appeal decision can be found via the planning application number links.

Planning Application Number	Address	Appeal Decision Date	Appeal Reference
2015/3640	26 The Avenue, Claygate, Esher, Surrey KT10 0RY	12/08/2016	APP/K3605/W/16/3146699
2016/0813	Charters, Cavendish Road, Weybridge, Surrey KT13 0JN	22/11/2016	APP/K3605/W/16/3156265
2016/0122	29 Burwood Park Road, Hersham, Walton-on-Thames KT12 5LH	25/11/2016	APP/K3605/W/16/3156943
2015/2589	3 Gordon Road, Claygate, Esher KT10 0PJ	05/12/2016	APP/K3605/W/16/3154395
2016/1709	Kings Yard, Kings Road, Long Ditton, Surbiton KT6 5JE	02/02/2017	APP/K3605/W/16/3159613
2016/0471	37 Southdown Road, Hersham KT12 4PP	03/02/2017	APP/K3605/W/16/3160775
2016/2871	Land at 72 Portmore Park Road, Weybridge KT13 8HG	21/04/2017	APP/K3605/W/16/3163555
2016/0992	15 Portsmouth Road, Thames Ditton, Surrey KT7 0SY	05/05/2017	APP/K3605/W/16/3160272
2016/2280	Claremont House, 34 Molesey Park Road, Hersham, Walton-on-Thames KT12 4RQ	30/05/2107	APP/K3605/W/17/3167461
2016/1555	Land to the rear of 47-49 Bridge Road, East Molesey KT8 9ER	13/06/2017	APP/K3605/W/16/3165031
2015/2176	Land to the rear of 255-259 Hersham Road, Hersham, Walton-on-Thames KT12 5PZ	16/06/2017	APP/K3605/W/16/3160470
2016/0781	38 Rosehill, Claygate, Esher KT10 0HL	16/06/2017	APP/K3605/W/16/3161055
2016/3204	13A Station Avenue, Walton-on-Thames KT12 1NF	12/07/2017	APP/K3605/W/17/3170237
2016/3374	Land to the side of 50 Primrose Road, Primrose Road, Hersham, Walton-on-Thames KT12 5JD	12/07/2017	APP/K3605/W/17/3167882
2016/1628	115 Thorkhill Road, Thames Ditton KT7 0UW	14/07/2017	APP/K3605/W/17/3168617
2015/2059	8 High Street, Walton-on-Thames, Surrey KT12 1DA	24/07/2017	APP/K3605/W/16/3163928
2016/2822	28-30 High Street, Weybridge KT13 8AB	01/08/2017	APP/K3605/W/17/3170332
2016/3250	Wessex, South Road, Weybridge KT13 9DZ	01/08/2017	APP/K3605/W/17/3174279
2016/3339	70 Baker Street, Weybridge KT13 8AL	04/08/2017	APP/K3605/W/17/3166743
2016/3783	Land north-west of 39 Lovelace Road, Long Ditton, Surbiton, Surrey, KT6 6NZ	17/08/2017	APP/K3605/W/17/3170775

2016/2576	Plot 4, Embercourt Road, Thames Ditton, Surrey KT7 0LQ	18/08/2017	APP/K3605/W/17/3167270
2016/3977	Car park site, rear of Bridge Road, East Molesey, Surrey KT8 9ER	18/08/2017	APP/K3605/W/17/3169210
2016/2364	Land to rear of 74 to 128 Speer Road, Thames Ditton KT7 0PP	31/08/2017	APP/K3605/W/17/3172080
2016/2678	20 Russet Close, Hersham, Walton- on-Thames KT12 4QJ	31/08/2017	APP/K3605/W/17/3174860
2016/2066	67 St Mary's Road, Long Ditton, Surbiton KT6 5HB	01/09/2017	APP/K3605/W/17/3170220
2016/3422	Prince of Wales, 11 Cross Road, Weybridge, Surrey, KT13 9NX	06/10/2017	APP/K3605/W/17/3167961
2017/0184	46 Molesey Park Road, West Molesey KT8 2JZ	13/12/2017	APP/K3605/W/17/3182479
2017/0554	The Wellington, 60 High Street, Walton-on-Thames KT12 1BY	12/12/2017	APP/K3605/W/17/3179698
2017/1565	28a Green Lane, Hersham, Walton- on-Thames, Surrey KT12 5HD	15/12/2017	APP/K3605/W/17/3180558
2017/0568	Childs Play Centre, Manor Road, Walton-on-Thames KT12 2PH	08/01/2018	APP/K3605/W/17/3179815
2016/3758	Beechcroft and Tall Timbers and land to the rear as shown on the Title Plan SY790622, Field Common Lane, Walton on Thames KT12 3QH	19/01/2018	APP/K3605/W/17/3171756
2017/0436	Rear of 1 Park Road, East Molesey KT8 9LD	31/01/2018	APP/K3605/W/17/3180413
2017/1328	45 Pelhams Walk, Esher, KT10 8QA	09/02/2018	APP/K3605/W/17/3188300
2016/3994	Land South of 15 Queens Drive, Thames Ditton KT7 0TJ	12/02/2018	APP/K3605/W/17/3184426
2017/1646	Land Adjacent to 20 Holstein Avenue, Weybridge KT13 8NX	14/02/2018	APP/K3605/W/17/3187232
2016/1195	20-22 Castleview Road, Weybridge KT13 9AB	19/02/2018	APP/K3605/W/17/3178538
2017/2101	8 West Grove, Hersham, Walton-on- Thames KT12 5NX	01/03/2018	APP/K3605/W/17/3187926
2017/0133	21 Castleview Road, Weybridge KT13 9AB	20/03/2018	APP/K3605/W/17/3181617
2017/1966	Land southwest of Arenella, Mountview Road, Claygate, Esher, Surrey KT10 0UD	24/05/2018	APP/K3605/W/18/3195774
2017/2574	15 Eaton Park Road, Cobham, Surrey KT11 2JJ	24/05/2018	APP/K3605/W/18/3192667
2017/2812	9 Princes Drive, Oxshott, Leatherhead, Surrey KT22 0UL	24/05/2018	APP/K3605/W/18/3193874
2017/2816	No.38 (Chenies) and No.41 (Chantry) Twinoaks, Cobham KT11 2QW	17/07/2018	APP/K3605/W/18/3197265
2017/2433	11 Oakfield Glade, Weybridge KT13 9DP	18/07/2018	APP/K3605/W/17/3188993

Appeal decisions where the Planning Inspectorate has given more weight to the Government's WMS and changes to PPG (now embedded in the NPPF):

Information about the cases including copies of the appeal decision can be found via the planning application number links.

Planning Application Number	Address	Appeal Decision Date	Appeal Reference & Link
2015/0589	April Cottage, Queens Road, Weybridge, Surrey KT13 0AU	07/07/2016	APP/K3605/W/15/3129629
2015/2032	April Cottage, Queens Road, Weybridge, Surrey KT13 0AU	07/07/2016	APP/K3605/W/15/3132227
2015/3384	April Cottage, Queens Road, Weybridge, Surrey KT13 0AU	07/07/2016	APP/K3605/W/16/3142140
2016/0380	53 & 53A The Furrows, Walton-on-Thames, Surrey KT12 3JG	31/08/2016	APP/K3605/W/16/3150955
2015/3014	Touchwood, 9 Broom Close, Esher, Surrey KT10 9ET	08/09/2016	APP/K3605/W/16/3149477
2015/4401	Land to rear of 4 and 4a Castle View Road, Weybridge, Surrey KT13 9AB	22/09/2016	APP/K3605/W/16/3151802
2016/0638	Land adjacent to 20 Holstein Avenue, Weybridge, Surrey KT13 8NX	27/10/2016	APP/K3605/W/16/3153965
2016/1260	16 Holroyd Road, Claygate, Esher KT10 0LG	11/05/2017	APP/K3605/W/16/3164197
2016/1963	Esher Tyre and Exhaust, The Broadway, Thames Ditton, Surrey KT7 0LU	11/05/2017	APP/K3605/W/16/3164143
2016/2230	Princes Cottages, Leatherhead Road, Oxshott KT22 0EX	11/05/2017	APP/K3605/W/16/3163557
2016/2544	14 Burwood Road, Hersham, Walton-on-Thames KT12 4AG	11/05/2017	APP/K3605/W/16/3164019
2016/1677	12 Littleworth Common Road, Esher, Surrey KT10 9UE	05/07/2017	APP/K3605/W/16/3166135
2017/0346	89 West End Lane, Esher KT10 8LF	03/10/2017	APP/K3605/W/17/3179354
2016/3470	Land to the west of 4 Thistlecroft Road, Hersham, Walton-on-Thames KT12 5QZ	29/09/2017	APP/K3605/W/17/3178213
2016/4076	11 Oakfield Glade, Weybridge KT13 9DP	13/12/2017	APP/K3605/W/17/3181923

Appendix 4 - Calculating a financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1-4 units - Worked Example

Example A:

1 x 4-bed house - Size – 200 m² 2-storey OMV - £1,000,000
Guide size for relevant or comparative affordable home – 111 m²

1 x 4-bed house - Size – 200 m² 2-storey OMV - £1,000,000
Guide size for relevant or comparative affordable home – 111 m²

1 x 3-bed house - Size – 120 m² 2-storey OMV - £600,000
Guide size for relevant or comparative affordable home – 93 m²

Step 1 – Open Market Value (OMV) of a relevant or comparative development

Market value of proposed property / size of the property x affordable housing size that would have been required on-site.

4-bed house – £1,000,000 / 200 m² = £5,000 per m²

£5,000 x 111 m² = £550,000 x 2 = £1,110,000

3-bed house - £600,000 / 120 m² = £5,000 per m²

£5,000 x 93 m² = £465,000

Total OMV of relevant or comparative development = (£1,110,000 + £465,000)
£1,575,000

Step 2 - Multiply the OMV (Step 1) by the residual land value percentage (39.2%)

£1,575,000 x 39.2% = £617,400

Step 3 – Add 15% of the result of Step 2 to reflect site acquisition and servicing costs

£617,400 + 15% = £710,010 (base plot/land value)

Step 4 – Apply the affordable housing policy percentage (i.e. Step 3 x 20%)

£710,010 x 20% = £142,002

Appendix 5

In considering planning applications for mixed-tenure sites (market and affordable), regard will be had to the proposed affordability of any affordable housing to be provided in accordance with the following guidance.

Whilst Social Rented housing is tied to target rents, there is much greater flexibility in relation to the new Affordable Rent model, with rent levels that can be charged at anything up to 80% of market rents.

The guidance below sets out some guiding principles for RPs in setting Affordable Rent levels and in negotiating with private developers on the sale price to be paid for any affordable housing. The principles of rent levels relate directly to the Local Housing Allowance (LHA) rates and aim to ensure properties remain affordable to prospective tenants. This helps alleviate concerns around affordability and to also help distinguish between private sector rents and those set by RPs. The use of a sliding scale of LHA rates is intended to ensure a direct relationship is maintained between rent levels and property size.

In setting Affordable Rent levels and in negotiating with developers/applicants on the sale price to be paid for any affordable housing, RP's should be guided by the following principles:

Outer South West London Broad Rental Market Area (BRMA)

For one and two-bedroom properties, the Council expects that the gross rent (including service charges) should not exceed the lower of the following:

- 80% of the market rent, or
- 90% of the Local Housing Allowance cap¹ applying to the relevant property size for the month in which the property is to be first let

For three-bedroom properties, the Council expects that the gross rent (including service charges) should not exceed the lower of the following:

- 80% of the market rent, or
- 80% of the LHA cap applying to three-bedroom properties for the month in which the property is to be first let

For properties with four or more bedrooms, the Council expects that the gross rent (including service charges) should not exceed the lower of the following:

- 80% of the market rent, or
- 70% of the LHA cap applying to four-bedroom properties for the month in which the property is to be first let

¹ There are two sets of Local Housing Allowance rates relating to Elmbridge, one being the Outer South West London Broad Rental Market Area (BRMA) which covers a small part of the east of the Borough including The Dittons and Hinchley Wood; and Walton BRMA, which covers the majority of the Borough. The Valuation Office Agency is responsible for setting and publishing these rates on a monthly basis.

Walton BRMA

For one and two-bedroom properties, the Council expects that the gross rent (including service charges) should not exceed the lower of the following:

- 80% of the market rent, or
- 95% of the Local Housing Allowance cap applying to the relevant property size for the month in which the property is to be first let

For three-bedroom properties, the Council expects that the gross rent (including service charges) should not exceed the lower of the following:

- 80% of the market rent, or
- 85% of the LHA cap applying to three-bedroom properties for the month in which the property is to be first let

For properties with four or more bedrooms, the Council expects that the gross rent (including service charges) should not exceed the lower of the following:

- 80% of the market rent, or
- 70% of the LHA cap applying to four-bedroom properties for the month in which the property is to be first let

Appendix 6

Formula to calculate the surplus affordable housing contribution for the early review mechanism

X = Surplus profit available for additional on-site affordable housing

$$X = ((A - B) - (D - E)) - P$$

A = Estimated GDV for private residential component of development as determined for the time of review (£)

B = $A \div (C + 1)$
Assumed application stage GDV for private residential component at the date of planning permission (£)

C = Percentage change in value for the private residential component of the development from grant of planning permission to review date (HPI) (%)

D = Estimated build costs as determined at the time of review (£)

E = $D \div (F + 1)$
Assumed application stage build costs at the date of planning permission (£)

F = Percentage change in build costs from grant of planning permission to review (BCIS TPI) (%)

P = $(A - B) * Y$
Developer profit on change in GDV of private residential component (£)

Y = Developer profit as a percentage of GDV for the private residential component as determined as part of the review (%)

Notes:

(A – B) = Change in GDV of the private residential component of development from the date of planning permission to the date of review (£)

(D - E) = Change in build costs from the date of planning permission to the date of review (£)

Appendix 7

Formula to calculate the surplus affordable housing contribution for the late review mechanism

X = Late Stage Review Contribution

$$X = (((A + B) - C) - ((D + E) - F) - P) \times 0.6$$

A = GDV achieved on sale/ lease of 75 per cent of residential units and GDV from other parts of the development sold / let and other income receipts (£)

B = Estimated GDV for parts of the development that are yet to be sold/ let and other income sources (£)

C = GDV determined as part of the assessment of viability at the time planning permission was granted (or as determined in previous review (£))

D = Build costs incurred at the time of review (£)

E = Estimated build costs for remainder of the development (£)

F = Total build costs determined as part of the assessment of viability at the time planning permission was granted (or as determined in previous review) (£)

P = (A + B - C) * Y
Developer profit on change in GDV (£)

Y = Developer profit as a percentage of GDV as determined at the time planning permission was granted (%)

Notes:

(A + B) - C = The change in GDV from the grant of planning permission (or previous review) to the late stage review (£)

(D + E) - F = The change in build costs from the grant of planning permission (or previous review) to the late stage review (£)

P = Developer profit on change in GDV (£)

0.6 = Any surplus profit, after deducting the developer profit (P), will be shared between the LPA and the developer with 60 per cent used for additional affordable housing.