

Nuneaton and Bedworth Borough Council

Affordable Housing Supplementary Planning Document

2020

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1. Purpose of the Supplementary Planning Document

- 1.1 Nuneaton and Bedworth Borough Council recognises the importance of providing opportunities for people to live in a decent and affordable home. The Sustainable Community Plan 2007-2021¹, identifies the key role housing contributes in producing strong and successful places. The Plan commits the council to working with partners in the private and public sector to provide affordable homes in the borough.
- 1.2 The Nuneaton and Bedworth Borough Housing Strategy 2017-2022² identifies a persistent lack of affordable housing in the borough, with demand increasing since the publication of the previous Housing Strategy 2010-2015.
- 1.3 Delivery of affordable housing in the borough has fluctuated over the last few years as shown in figure 1³, which shows gross affordable housing completions as a percentage of the total completions. In recent years the borough has relied on a number of development sites to deliver all affordable dwellings and no market housing component.

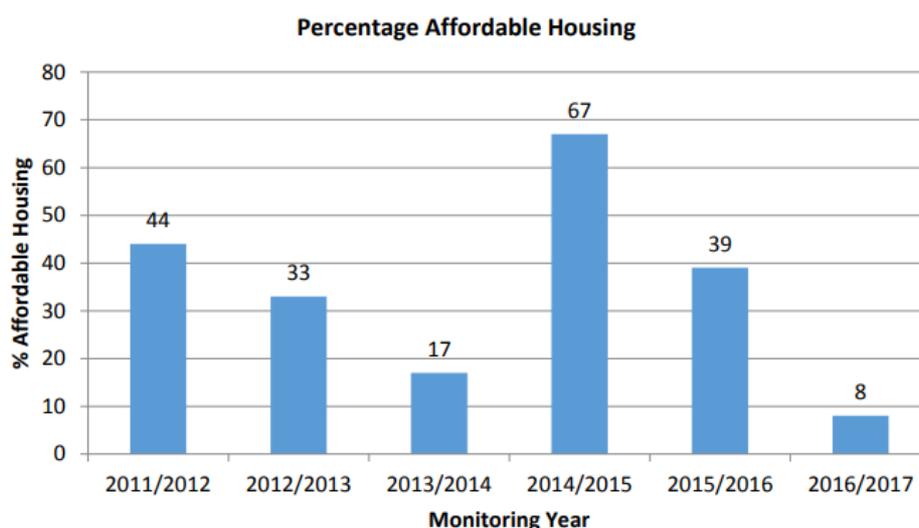


Figure 1 Affordable housing completions across the monitoring period, as a percentage of the total number of completions.

¹ Shaping Our Future...Sustainable Community Plan 2007-2021 for Nuneaton and Bedworth http://www.nuneatonandbedworth.org.uk/docs/Community_Plan_2007-2021.pdf

² Nuneaton and Bedworth Borough Council, Housing Strategy 2017 – 2022 https://www.nuneatonandbedworth.gov.uk/download/downloads/id/1843/housing_strategy_2017_to_2022.pdf

³ Nuneaton and Bedworth Borough Council, Authority Monitoring report 1st April 2016 – 31st March 2017 https://www.nuneatonandbedworth.gov.uk/download/downloads/id/2226/v13_-_authority_monitoring_report_2016_-_2017.pdf

- 1.4 The Homelessness Strategy for Nuneaton and Bedworth, 'A Place Called Home, 2019-2024⁴, identifies the role affordable housing can play in reducing homelessness in the borough. In the last 5 years over 580 affordable homes have been built in the borough. These homes help to provide housing for those in greatest need in the borough, some of which may be homeless and in temporary accommodation. The strategy notes the need for affordable housing will increase in the borough as the population increases and grows older.
- 1.5 The provision of affordable homes is complex and requires the input of a number of different agencies. The planning system can help to bring together different parties and offer some solutions to affordable housing availability.
- 1.6 The government allows local authorities to provide affordable homes by requiring developers to deliver them as part of new housing developments. Borough Plan 2011-2031 Policy: H2 Affordable Housing sets out the council's planning policy approach in the borough.
- 1.7 This Supplementary Planning Document (SPD) provides further details on Borough Plan 2011-2031 Policy H2 Affordable Houses and is a material consideration in determining planning decisions. It is advised that the contents are considered early in the development process, including in the acquisition of land for development.
- 1.8 The requirement to provide appropriate affordable housing should be considered at the outset of the development process, along with other requirements of the Borough Plan. Developers should not expect the requirement to provide affordable housing to be waived at any stage of the development process.

2. Policy Context

National Planning Policy Framework

- 2.1 The National Planning Policy Framework⁵ in paragraphs 61-64 sets out government policy towards affordable housing. The NPPF requires local planning authorities to:
 - Reflect in planning policies the needs of different groups in the community who require affordable housing.

⁴ Nuneaton and Bedworth Borough Council A Place Called Home 2019-2024, A Strategy for Preventing Homelessness in the Borough
https://www.nuneatonandbedworth.gov.uk/download/downloads/id/3138/homeless_strategy_2019_-_2024.pdf

⁵ National Planning Policy Framework February 2019 -
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

- Specify the type of affordable housing required, which should normally be expected to be delivered on site, unless off site provision or a financial contribution can be robustly justified.
- Seek affordable housing, in most cases, only on major residential developments
- Support the re-use of brownfield sites by reducing affordable housing contributions by a proportionate amount (equivalent to the existing gross floorspace of the existing buildings) where vacant buildings are being reused or redeveloped

2.2 Annex 2 of the NPPF provides the following definition for affordable housing:

2.3 **Affordable housing:** 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); and which complies with one of more of the following definitions:

2.4 a) **Affordable housing for rent:** meets all of the following conditions:

(a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable);

(b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.

For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

2.5 b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016⁶ and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

2.6 c) **Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

⁶ Housing and Planning Act 2016 22PART 1CHAPTER 1Section 2 - <http://www.legislation.gov.uk/ukpga/2016/22/section/2/enacted>

- 2.7 d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.
- 2.8 The Borough Plan and supporting Supplementary Planning Documents use the NPPF definition of affordable housing.

Borough Plan

- 2.9 The Borough Plan Policy, H2 – Affordable Housing sets out the local interpretation of the NPPF. The policy is reproduced below and should be read in context with the Borough Plan⁷ and related SPDs and any further updates to the National Planning Policy Framework or associated guidance.

⁷ Nuneaton and Bedworth Borough Council, Borough Plan 2011-2031 (2019)
https://www.nuneatonandbedworth.gov.uk/downloads/download/558/adopted_borough_plan

Policy H2 – Affordable Housing

The Council will seek to negotiate 25% affordable housing where residential development proposals consist of 15 dwellings or more, and for 2 units where residential development proposals consist of between 11 – 14 dwellings, irrespective of any demolitions.

The tenure split and affordable housing mix sought will be based upon evidence provided by the Council's Housing Register and the Strategic Housing Market Assessment (SHMA), which will be regularly updated.

All development proposals are required to provide affordable housing on site which is well integrated within the proposed development, unless offsite provision can be robustly justified.

Where developers consider applying the affordable housing policy is unviable, or where it is considered that a different mix would better suit local needs and site specific circumstances, a viability statement must be included with the planning application stating the reasons.

Proposals which boost affordable housing delivery will be considered constructively in line with any updates to national policy, including Starter Homes exception sites which will be exempt from meeting the affordable housing requirements.

3. Affordable Housing Need in the Borough

Amount of Affordable Housing Needed

- 3.1 The 2015 Strategic Housing Market Assessment (SHMA)⁸ identifies a need for affordable housing across the borough and the neighbouring authorities of Coventry, North Warwickshire, and Rugby. The SHMA shows that despite property prices being the cheapest in Warwickshire, over 50% of people in the borough are unable to afford entry level housing to buy or rent.
- 3.2 The significant need for affordable housing in the borough identified in the SHMA is a key consideration for both plan preparation and decision making. In 2018 the council pioneered the use of modular buildings in a successful pilot development funded by Homes England. In 2014/15 and 15/16 the council was able to build its own council homes. However, the council needs the collaboration of registered providers and private developers through Section 106 (S106) planning obligations to help meet local need.

⁸ Updated Assessment of Housing Need: Coventry-Warwickshire HMA (GL Hearn, 2015). https://www.nuneatonandbedworth.gov.uk/download/downloads/id/435/s122_-_updated_assessment_of_housing_need_coventry_warwickshire_hma_report_2015.pdf

- 3.3 The Borough Plan places requirements on new build developments to provide affordable housing as part of the overall housing offer. In preparation for the Borough Plan research was conducted examining the viability of affordable housing on developments in the Borough^{9,10} The research concluded an affordable housing target of 25% is viable on developments of 15 dwellings or more; developments of 11-14 dwellings, the council will request 2 affordable units.

Tenure Mix

- 3.4 The 2015 Strategic Housing Market Assessment (SHMA)⁵ has proposed a tenure breakdown of Intermediate 48% and social/affordable 52%. Policy H2 also requires consideration to be given to the council's up to date housing register. This SPD recommends a tenure split of 74% social/affordable rent to 26% intermediate housing mix. The figure is based on the acute need for social/affordable units demonstrated by the council's up-to-date Housing Register. Given the time that has elapsed since the production of the 2015 SHMA, the council's Housing Register is considered to provide the most appropriate basis for determining tenure mix at present. Additional evidence presented in support of applications may be considered to further inform the tenure split. The Council will seek 26% intermediate housing and 74% affordable rented.
- 3.5 The current mix of housing tenure, types and sizes available in different parts of the Borough is uneven. The tenure mix required may vary depending on location and housing need. Developers should contact the council at the earliest opportunity to establish the required tenure mix.

⁹ Affordable Housing Background Paper Final Report 2016 (GL Hearn, 2016)
[https://www.nuneatonandbedworth.gov.uk/site_search/results/?q=Affordable+Housing+Background+Paper+Final+Report+2016+%28GL+Hearn%2C+2016%29#gsc.tab=0&gsc.q=Affordable%20Housing%20Background%20Paper%20Final%20Report%202016%20\(GL%20Hearn%2C%202016\)&gsc.page=1](https://www.nuneatonandbedworth.gov.uk/site_search/results/?q=Affordable+Housing+Background+Paper+Final+Report+2016+%28GL+Hearn%2C+2016%29#gsc.tab=0&gsc.q=Affordable%20Housing%20Background%20Paper%20Final%20Report%202016%20(GL%20Hearn%2C%202016)&gsc.page=1)

¹⁰ Nuneaton & Bedworth Borough Council Local Plan Viability Assessment - Update (DSP, 2016)
[https://www.nuneatonandbedworth.gov.uk/site_search/results/?q=Nuneaton+%26+Bedworth+Borough+Council+Local+Plan+Viability+Assessment+-+Update+%28DSP%2C+2016%29%2C#gsc.tab=0&gsc.q=Nuneaton%20%26%20Bedworth%20Borough%20Council%20Local%20Plan%20Viability%20Assessment%20-+Update%20\(DSP%2C%202016\)%2C&gsc.page=1](https://www.nuneatonandbedworth.gov.uk/site_search/results/?q=Nuneaton+%26+Bedworth+Borough+Council+Local+Plan+Viability+Assessment+-+Update+%28DSP%2C+2016%29%2C#gsc.tab=0&gsc.q=Nuneaton%20%26%20Bedworth%20Borough%20Council%20Local%20Plan%20Viability%20Assessment%20-+Update%20(DSP%2C%202016)%2C&gsc.page=1)

Table 1 Definitions of Affordable Housing (NPPF)

Social or Affordable Housing for Rent		Tenure Percentage Requirement (guideline only)
Social Rent Affordable Rent	Rent in accordance with the Government's rent policy for Social Rent typically between 50 and 60 per cent of market rents; or Affordable Rent no more than 80 per cent of local market rents. Landlord is usually the council or a registered provider, includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.	74%
Affordable Private Rent also known as Build to Rent	Build to Rent schemes- affordable housing for rent. Is the usual route for developers to deliver affordable housing requirement. A minimum rent discount of 20% relative to local market rents. Build to rent developers should assess the market rent using the definition of the International Valuations Standard Committee as adopted by the Royal Institute of Chartered Surveyors.	
Intermediate Housing		
Other affordable routes to home ownership	Shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent).	26%
Discounted market sales housing	Sold at a discount of at least 20% below local market value, subject eligibility requirements and perpetuity arrangements, aims to help low and middle earners get onto the property ladder.	
Starter Homes	Assistance provided to first time house buyers. A "Qualifying first-time buyer" means an individual who is a first-time buyer, is at least 23 years old, but has not yet reached the age of 40 and meets any other criteria specified in regulations made by the Secretary of State.	

The Housing Mix

3.6 The council will seek a housing mix based on the 2013 SHMA (or any subsequent updated SHMA) and the Housing Register. At the time of writing the current requirement is:

40% - 45%	1 bedroom
25% - 30%	2 bedrooms
20% - 25%	3 bedrooms
5% - 10%	4+ bedrooms

3.7 The Housing Register is regularly updated and developers are advised to make early contact with the council's Housing Strategy team on 024 7637 6483 to determine the current requirement.

4. Scenarios Which May Affect the Amount of Affordable Housing

4.1 Policy H2 – Affordable Housing states the council will seek to negotiate 25% affordable housing where residential development proposals consist of 15 dwellings or more and 2 dwellings for proposals of 11-14 dwellings. Some development proposals may arise which affect the percentage amount of affordable homes.

4.2 The NPPF is clear that developments must make efficient use of land. Where the number of new dwellings is not considered appropriate to the density of the area and not making efficient use of the land, the council will negotiate a revised number of dwellings at a greater density. The revision may result in an increased requirement for affordable housing units.

4.3 If the number of dwellings to be built on the development site is less than the policy threshold but greater than 1000m² gross floor space, it is expected that affordable housing units will be provided in accordance with Borough Plan Policy H2.

4.4 Where existing affordable housing, or sites previously used for affordable housing are to be redeveloped the same number of affordable houses should be replaced on site. The mix of tenure and dwelling size should be confirmed with the council to suit current need. Where viability grounds prevent the re-provision of affordable houses, the council will negotiate the numbers, tenure and size of affordable housing.

4.5 Schemes which comprise of entirely affordable housing should have regard to the percentage share of rental tenure. Other than the rental requirement there are no maximum parameters set to the number of affordable housing units. However, the design and layout must facilitate the aim of achieving balanced sustainable communities.

- 4.6 In cases where the percentage does not equate to a whole dwelling the amount required will be rounded up.
- 4.7 The council will be alert to artificial or contrived subdivision of land to circumvent the affordable housing thresholds. If there is a suspicion that proposals are not using land efficiently, or proposals are being developed in piecemeal way to achieve this, the council will scrutinise site ownership boundaries, densities, unit mix and adjacent land proposals. Where there is a clear case that applicants are trying to circumvent affordable housing thresholds, the proposals will either be recommended for refusal or asked to be withdrawn and resubmitted with a revised scheme. Where adjacent and related residential proposals result in combined numbers meeting or exceeding the policy threshold for affordable housing, the council will request that they are included as part of a comprehensive development proposal. In those instances, the council will seek the appropriate amount of affordable housing based on the total number of dwellings or floor space area achievable for the combined parcels of land.

5. Design and Location of Affordable Housing

- 5.1 To promote inclusive communities affordable housing should not be identifiable from other forms of housing within a housing development. Affordable housing should not be located in the least desirable areas of the site but distributed evenly amongst market housing. The following table provides appropriate cluster sizes for development proposals of various sizes:

Total development size (no. of units)	Affordable unit requirement (no. of units)	Maximum cluster size (no. of units)	Approx. number of clusters
15-30	4-8	2	2-4
31-60	8-15	4	2-3
61-100	15-25	5	3-5
101-150	25-38	7	4-5
151-200	38-50	10	3-5
200- 500	50-125	15	3-8
500+	125+	15-20	8+

- 5.2 Clusters comprise of all affordable housing tenures including; all affordable housing which share a common border including adjacent gardens; existing affordable housing and any affordable home on an adjacent construction phase including those in different land ownership.
- 5.3 Interaction within the community is an important consideration when designing places for people to live. Social integration can enhance wellbeing and provide enhanced safety and security for residents. The location and design of affordable housing should promote daily interaction between affordable and market occupiers. The council will be alert to applications which may entrench social divisions and harm future community cohesion.

- 5.4 Innovative designs and construction techniques such as, modern methods of construction can help to alleviate housing need in the Borough and will be encouraged. Proposals should have regard to the broader range of planning policies.
- 5.5 The design of affordable housing should conform to design standards of funding bodies such as Homes England in order to satisfy any funding grant requirements.
- 5.6 The overall design should accord with Borough Plan BE3 – Sustainable Design and Construction and other relevant policies.

6. Timing of Provision

- 6.1 In order to achieve the desired outcome of mixed and balanced communities, the timing of the delivery of affordable homes should be considered carefully at the application stage of the process. Applications must demonstrate that affordable housing will be completed at a proportionate rate to that of market housing.
- 6.2 On phased developments, developers must take into account the location of affordable housing on neighbouring sites to ensure an even housing distribution across the sites. Dialogue is particularly important on large strategic sites which may be in multiple ownership and involve different developers and land owners.

7. Accessible Housing

- 7.1 Developers of affordable housing will need to consider the range of needs of people who live within the Borough. The SHMA identifies homes for older people and for people with disabilities as an important requirement within the Borough.

Older People

- 7.2 Borough Plan Policy H1 Range and Mix of Housing details the requirements for housing provision within the Borough and is informed by SHMA studies. The 2013 SHMA shows there is a need for 2231 extra care housing units in the Borough, of which 550 will need to be affordable. Where an evidenced need exists, particularly in locations with good access to local services, the council will seek appropriate affordable extra care housing.

People with Disability

- 7.3 The needs of people with disabilities are considered in Policy BE3 Sustainable Design and Construction which requires that 35% of the development proposal should meet the optional Building Regulations requirement M4(2) for 'accessible and adaptable dwellings'. Where an evidence need exists the council will negotiate the requirement in relation to affordable housing.

8. Car Parking Standards

- 8.1 Car parking for affordable housing should be the same as for open market housing, meeting the standards set out in the Supplementary Planning Document 'Transport Demand Management Matters' in terms of the amount and design. Deviation from these car parking standards will be by exception and only where robustly justified, taking into account the unique characteristics of the proposal and the site.

9. Viability

- 9.1 There may be circumstances where the requirement for affordable housing may impact on the viability of a development. The requirement for affordable homes should be considered at the earliest stage of the application process. Applicants are urged to submit a draft viability assessment with pre application advice where a proposal meets the threshold for affordable housing where viability may be an issue with conforming to affordable housing planning policy requirements.
- 9.2 All applications which fail to meet the policy requirement to deliver affordable housing must submit a viability assessment. The council advocates the use of the Home and Communities Agency (now Homes England) Development Appraisal Tool (DAT)^{11,12, 13} to review the viability of affordable housing requirements.
- 9.3 The DAT enables the testing of viability at different levels of affordable housing, using a fixed land value and a target developer return to calculate a surplus or a deficit to demonstrate if a proposal is viable or not.
- 9.4 A commentary by the applicant should be provided with the viability assessment describing how input figures in the DAT have been derived and

¹¹ Development Appraisal Tool <https://www.gov.uk/government/publications/development-appraisal-tool>

¹² Development Appraisal Tool User Manual https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/373365/DAT_user_guide_v4.pdf

¹³ Viability Guidance <https://www.gov.uk/guidance/viability>

explaining any assumptions in the calculation. Credible sources of information should be used to complete the DAT.

- 9.5 Assumptions on developmental value should be justified with reference to comparable properties, appropriate market evidence, and arrangements with local housing providers. Development costs figures should be based on values obtained as close to the date of the application for planning permission.
- 9.6 The viability assessment should cover a range of possibilities regarding housing tenures and percentages of housing mix. The council will be responsible for deciding which permutation will serve local housing needs.
- 9.7 Development schemes which are unviable at the proposed level of affordable housing should adjust either growth assumptions or the profit level to demonstrate the extent that the proposed scheme becomes viable.
- 9.8 Where viability issues have been demonstrated the council will consider amending the affordable housing provision in the following order:
 1. Lower levels of intermediate housing.
 2. Reconfiguring the tenure mix.
 3. In exceptional circumstances, commuted payments in lieu of affordable housing.Developers seeking to amend the provision of affordable housing should follow the order set out above, and clearly demonstrate why an option is not suitable before proceeding to the next in sequence.
- 9.9 The council may appoint an independent assessor to assess the viability assessment. The costs of appointing the independent assessor should be covered by the developer.
- 9.10 In accordance with the NPPF and associated guidance, the council will publish viability statements and developer contributions. In exceptional circumstances where data is deemed commercially sensitive the data will be aggregated and published in a viability assessment executive summary and included as total cost figures.
- 9.11 Where the amount of affordable housing is varied following a viability assessment the Section 106 (S106) Agreement will place a time limit on the agreed amount of affordable housing. If the scheme is not completed within three years the viability of the scheme will be re-assessed at a cost to the applicant.
- 9.12 Fluctuations in the housing market mean viability assessments may need to be reassessed. If market changes mean a site becomes more viable it may

become necessary to renegotiate the affordable housing requirement prior to the determination of the application.

- 9.13 Where the amount of affordable housing has been negotiated down the S106 Agreement will include an option to undertake a final scheme viability assessment. If the scheme has been found to have become more viable, the additional funds will be payable to the council, up to a total of the original amount due.
- 9.14 Planning Policy Guidance is clear that when a viability assessment is used to inform decision making, the price paid for land will not be a justification for failing to accord with planning policies.
- 9.15 Viability can be used to determine the amount, tenure and mix affordable housing, it is not used to determine if affordable housing should be provided onsite or offsite.

10. Alternative Site Location and Commuted Provision

- 10.1 Where affordable housing has been sought by the council under the Policy H2 – Affordable Housing, provision should normally be met at the site which is subject to planning permission. In certain circumstances it may not be possible to deliver affordable housing as part of the overall development site. In such cases it is incumbent on the applicant to demonstrate why on-site delivery is not possible. Circumstances which might justify off-site provision may include:
- Sites where it is not possible for Registered Providers to effectively manage properties.
 - Where it can be proven that the aim of achieving mixed and balanced communities cannot be achieved on site.
 - Where developments would incur high maintenance costs which would be prohibitive to Registered Providers.
 - The applicant's business model
- 10.2 Where it has been demonstrated on-site delivery of affordable housing is not possible, the council will consider four alternative options in the following order:
1. An alternative location within two miles to the development site which has the greatest need for affordable housing.

2. If no sites are within two miles of the development site, an alternative site within the Borough which has need for affordable housing.
 3. The purchasing of existing housing units within the Borough.
 4. In exceptional circumstances the council will consider a commuted sum. The council will keep hold of the sum in a dedicated affordable housing account for a period of ten years, after which time, if the sum is not used, the council will return the sum with interest to the applicant.
- 10.3 Developers seeking to provide affordable housing off-site should follow the order set out above, and clearly demonstrate why an option is not suitable before proceeding to the next in sequence.
- 10.4 Where the council has agreed to an alternative location the offsite provision must be to the equivalent amount and cost of on-site affordable housing. To support the aim of creating strong and vibrant communities, the mix between open market housing and affordable housing should be the same as if provided on the development site.
- 10.5 The alternative site location must carry similar benefits and access to local facilities for potential occupants as the original development site. Applicants may be required to demonstrate that they have considered a number of different potential sites and that the chosen site is broadly comparable to the original site in terms of its characteristics and access to local facilities.
- 10.6 Where the applicant purchases housing equivalent to size, number and cost to those which should be located at the development site, the purchased housing should maintain the mix between affordable housing and market housing as would have been delivered on the development site.
- 10.7 Commuted sums in the form of financial contributions are the last resort. The financial contribution will be calculated on the basis of the equivalent to on-site provision. The Home and Communities Agency (now Homes England) Development Appraisal Tool (DAT) can be used to calculate the amount payable. The DAT is designed to appraise the viability of sites, and can also be used as a negotiation tool in the development process^{11,12}.
- 10.8 It is the responsibility of the applicant to submit the DAT as part of the application. The council may engage an independent financial assessor to examine the commuted amount, at a cost to the applicant.
- 10.9 The DAT, the DAT user guide and the DAT self-training exercise are available to download from the internet, and can be found here:
<https://www.gov.uk/government/collections/development-appraisal-tool>

11. Section 106 Agreements

- 11.1 Affordable housing will normally be secured by a Section 106 Agreement (S106), planning condition and in limited cases, an applicant may submit a Unilateral Undertaking in respect of a planning obligation.
- 11.2 Obligations for the provision of affordable housing secured through S106 of the Town and Country Planning Act 1990 (as amended) are entered into as legal agreements.
- 11.3 The S106 will set out criteria that if met grants the council or registered affordable housing provider the option to purchase the property.
- 11.4 The S106 agreement should be signed within 6 months of the application being approved by the planning committee, unless an alternative timescale is agreed in writing between the council and the applicant. Further extensions could be agreed if the council's Planning Officer is satisfied the Section 106 Agreement is progressing. Failure to sign within the time period will result in the refusal of planning permission.

Full Applications:

- 11.5 The application should clearly define all the basic characteristics of the affordable housing to be provided –
 - A schedule detailing the number and type of affordable dwellings
 - Site plan showing tenures and location
 - Trigger points for the delivery of affordable housing
 - The process for appointing a Registered Provider or future management of the housing

Outline Applications:

- 11.6 The provision of affordable housing will be secured at the time of the planning permission, however the level of detail in the application may result in the S106 making provision for the specifics to be provided as part of Reserved Matters application.

Permissions in Principle:

- 11.7 Affordable housing will be secured at the technical details consent stage of the application.

12. Management

Registered Providers

- 12.1 Completed housing for affordable rent must be managed in accordance with the current regulatory framework for social housing. The framework is made up of regulatory requirements, codes of practice and regulatory guidance.
- 12.2 Affordable housing for rent should be transferred to a Registered Provider¹⁴. The homes will be let according to the guideline target rents determined through the national rent regime.
- 12.3 Developers should establish a working relationship with Registered Providers at an early stage in the application process. The council Housing Team should be informed of the invitation for offers and regularly kept informed of ongoing discussions. A link to the Registered Providers known to the council is available below.
- 12.4 The amount a Registered Housing Provider will pay for affordable housing will depend on the mix provided and any funding restrictions incumbent on the Registered Provider. Where funding restrictions, housing mix or site location limit the amount of housing a Registered Provider can purchase, the council may negotiate a lower amount of affordable housing.
- 12.5 The HCA Development Appraisal Tool in Affordable Housing Clash Flow mode can be used to help in the valuation of affordable housing.

Affordable Private Rent

- 12.6 Developers who manage affordable private rent must confirm with the council that management arrangements are acceptable. It must be agreed with the council that equivalent rental arrangements to the national rent regime will be provided or rents are subject to rent controls of no more than 80% of the local market rent.
- 12.7 The affordable rent operators must produce an annual statement to the council's Planning Department, confirming the approach to letting the affordable units, their ongoing status, and clearly identifying how the scheme is meeting the overall affordable housing level required in the planning

¹⁴ Registered Providers currently in Nuneaton and Bedworth
https://www.nuneatonandbedworth.gov.uk/info/20013/apply_for_council_housing/188/apply_for_housing/3

permission. The requirement to produce an annual statement will be included in the S106 agreement¹⁵.

- 12.8 The S106 will set out the management of affordable private rent units which will include: the parameters of the lettings agreement, the rent levels, apportionment of the homes across the development, a management and service agreement, and a marketing agreement setting out how their availability is to be publicised¹⁴.

13. Occupancy

Social Rent/Affordable Rent

- 13.1 Eligibility will be determined by Nuneaton and Bedworth Borough Council's banding system based on housing need¹⁶. Applicants in the higher band (Band 1+ = highest, Band 3 = lowest) will have a greater need for finding a home and will have the highest priority. Priority will be given to those who have been waiting the longest in their band.

Affordable Private Rent (Build to Rent)

- 13.2 Affordable private rent eligibility will be determined with regard to local household income levels, related to local rent levels. The council may suggest names for occupancy from the Housing Register but will not have direct nomination rights¹⁷.
- 13.3 The occupancy criteria will be agreed between the developer and the council as part of the planning application process. The occupancy criteria will be set out in the S106.
- 13.4 Affordable private housing must offer 'family friendly tenancies' of 3 or more years to new tenants who want them. The requirement will be set out in a planning legal agreement.

Discounted Market Sales Housing

- 13.5 Affordable housing for the private market- that sold at a discount of at least 20%, will have regard to local incomes and local house prices. To be eligible a

¹⁵ Planning Policy Guidance, Paragraph, 006 Reference ID: 60-006-20180913
<https://www.gov.uk/guidance/build-to-rent>

¹⁶ Nuneaton and Bedworth Housing Allocations Policy 2017
https://www.nuneatonandbedworth.gov.uk/downloads/file/2109/housing_allocations_policy_2017

¹⁷ Planning Policy Guidance, Paragraph: 009 Reference ID: 60-009-20180913
<https://www.gov.uk/guidance/build-to-rent>

household would not be able to afford open market housing, have a local connection and be able to demonstrate a housing need.

14. Affordability

- 14.1 The legal agreement will ensure that rental levels, service charges and shared ownership costs are affordable.
- 14.2 Prior to the marketing of new affordable housing developers should contact the council's Housing team to obtain agreement of the current market values of the homes and the discounted price.

15. Affordability for Future Households

- 15.1 In accordance with the NPPF, affordable housing for sale or rent must remain affordable for future households.

Affordable Rent

- 15.2 Where a Registered Provider is not involved in the provision of affordable housing, the legal agreement will ensure affordability is passed on to future occupiers.
- 15.3 In cases where affordable housing is withdrawn (due to redevelopment, for example) the council expects replacement provision to be provided within the borough. Where replacement provision is not possible the council will use the financial resources which are due to provide further affordable housing within the borough.
- 15.4 To calculate the financial amount when affordable private rent homes are withdrawn the legal agreement will include the formula $\text{Clawback Sum} = D \times E$ as set out in Planning Policy Guidance¹⁸:

Table 2 Formula for Withdrawal of Affordable Housing (Planning Policy Guidance)

$\text{Clawback sum} = D \times E$
where:
D is the price at which the home(s) withdrawn from Affordable Private Rent are sold
E is the percentage discount that had been applied to the rent in respect of the Affordable Private Rent home(s) being sold

¹⁸ Planning Policy Guidance, Paragraph: 008 Reference ID: 60-008-20180913
<https://www.gov.uk/guidance/build-to-rent>

Affordable Market Housing

- 15.5 The legal agreement will include provision for a covenant in the freehold to be used to limit resale prices. A buyer may enter into a covenant with the provider that enables them to sell the property in the future but only at the same percentage of the market value. The covenant can be used to restrict the price based on local median incomes.
- 15.6 When marketing the affordable housing, developers should make potential buyers aware of the discount and the long term implications of buying a discounted property, together with an explanation of any resale requiring a percentage reduction of the open market value. This shall also be set out in the legal agreement.

16. Affordable Housing Checklist

- 16.1 To assist developers in the requirement of Policy H2 Affordable Housing and the contents of this SPD a checklist is provided in Appendix A. The checklist should accompany all applications.

Appendix: A - Affordable Housing Checklist for Developers

Policy Compliance		
Does the proposal accord with the Borough Plan policy requirement of providing either 2 units or 25% (as appropriate) of affordable housing?	Y	N
If No please explain reason for non-compliance		
Is the amount of affordable housing recommended by Council Officers?	Y	N
If the offer is not recommended by officers please explain why the application should proceed:		
Tenure Compliance		
Does the onsite affordable housing tenure mix accord with the council Housing Strategy?	Y	N
If not compliant please explain why:		
Is the tenure split supported by council officers	Y	N
If the tenure split is not supported by council officers please explain why the application should proceed:		
Has a plan detailing the positioning of affordable housing been submitted?	Y	N
Is the affordable housing well integrated into the development avoiding concentrations of tenure?	Y	N
If the affordable housing is not well integrated please explain why the application should proceed:		
Is the layout supported by council officers?	Y	N

If the layout is not supported by council officers please explain why:

Affordable Housing Mix

Please provide details of the housing mix:

Unit Type	Private		Low Cost		Intermediate		Affordable Rent		Totals	
	Units	GIA	Units	GIA	Units	GIA	Units	GIA	Units	GIA
Studio Flat										
1 Bed Flat										
2 Bed Flat										
3 Bed Flat										
2 Bed House										
3 Bed House										
4 Bed House										
5 Bed House										
Totals		m2		m2		m2		m2		m2
% of Scheme										

*GIA = Gross Internal Area.

Location of Affordable Housing Provision

Will the affordable housing be delivered on- site?

Y N

If No please explain the affordable housing offer:

Is the offer recommended by council officers?

Y N

If the offer is not recommended by officers please explain why the application should proceed:

Affordable Housing Providers

Have registered providers been approached and the council informed of discussions?

Y N

If there are no discussions with registered providers please explain why: