

Modifications to the *Affordable housing supplementary planning document* in response to consultation and at officer level

Page/Para	Modification	Reason
Cover	Amendment to title to read: Affordable housing supplementary planning document to Joint Core Strategy Policy 4 and Local plan policy DM33. Addition of new sub-heading to read: <u>This document supplements <i>Joint core strategy</i> policy 4 and <i>Norwich local plan</i> policy DM33.</u>	For clarification.
Cover	Removal of 'draft for consultation'	This sub-heading is not required upon adoption.
Page 2/Executive Summary Para 1	Amendment to paragraph 1 of the executive summary as follows: 'This supplementary planning document (SPD) provides detailed guidance on how policy 4 of the <i>Greater Norwich Joint Core Strategy (JCS)</i> and policy DM33 of the local plan, both relating to delivery of affordable housing, should be interpreted and implemented in order to help promote mixed and sustainable communities. <u>In November 2014 central government introduced changes to National planning policy which increased the threshold over which affordable housing can be required by a local planning authority. This SPD acknowledges this national policy change and outlines the parts of JCS policy 4 which can no longer be applied, and how the 'vacant building credit' will be calculated.</u>	To add reference in the executive summary to the changes to National planning policy made in November 2014.
Page 2/Executive Summary Para 2	Amendment to paragraph 2 of the executive summary as follows: 'The SPD reiterates the requirements for affordable housing on development sites of <u>511</u> or more dwellings as required by JCS policy 4 ¹ , and makes clear the design requirements for affordable housing provision.' Inclusion of footnote 1: 1 - 'Bullet point 1 of JCS policy 4 ('affordable housing section') can no longer be applied, and bullet point 2 now only applies to sites of 11-15 dwellings following changes to National planning policy.'	To update the threshold over which affordable housing can be required following the changes to National planning policy made in November 2014, and to add the footnote for clarity on the parts of JCS policy 4 which can no longer be applied.
Page 3/Executive Summary	Amendment to paragraph 10 of the executive summary as follows: 'Consultation on this <u>the</u> draft SPD will take <u>took</u> place in the autumn of 2014. The adopted SPD will be a material consideration in determining planning applications and will supersede the 2011 Interim statement on affordable housing and the	To provide an update to the progress of the SPD to adoption.

Para 10	corresponding Prioritisation framework.'	
Pages 4-5/National planning policy Paras 4, 5, 6 & 7	<p>Amendment to paragraph 4 as follows and the addition of 3 new paragraphs:</p> <p>4. In addition, relevant guidance in <i>National Planning Practice Guidance</i> (NPPG) published in March 2014, <u>and amended in November 2014</u>, has also been taken into consideration, in particular the sections on planning obligations and design. <u>Following changes made in November 2014, the NPPG now stipulates that 'contributions should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm'.</u></p> <p>5. <u>When considering development of a vacant (empty/cleared) site and proposed unit numbers the NPPG is clear: only sites of 11 or more dwellings should provide affordable housing on site.</u></p> <p>6. <u>When considering sites where vacant buildings are present and are proposed to be brought back into lawful use or demolished and replaced with a new building, the NPPG states that developers should be offered a 'financial credit equivalent to the existing gross floorspace...' and that 'affordable housing contributions would be required for any increase in floorspace'. The process for determining the vacant building credit is set out in section 4 of this document.</u></p> <p>7. <u>For clarity, the vacant building credit applies only where the building has not been abandoned.</u></p>	To outline the changes made to National planning policy in November 2014.
Page 6/Local policy context Para 9	<p>Amendment to paragraph 9 as follows:</p> <p>'9. The local plan for Norwich consists of the Joint Core Strategy (JCS), the emerging Site allocations and site specifics policies local plan (the Site allocations local plan), the emerging Development management policies local plan (the DM policies local plan), the emerging policies map, and the Northern city centre area action plan (NCCAAP). At time of writing this draft the Site allocations plan, DM policies plan and corresponding policies map have all been subject to examination in public by the Secretary of State and are nearing adoption.'</p>	Removal of reference to the emerging local plan documents following adoption of the Norwich local plan in December 2014.
Page 6/Local policy context Para 11	<p>Inclusion of a new paragraph as follows:</p> <p>'<u>Following changes to National planning policy in November 2014, bullet point 1 of JCS policy 4 can no longer be applied. Further, bullet point 2 relates only to sites of 11-15 dwellings.'</u></p>	For clarification following changes to National planning policy in November 2014.

Page 6-7/Local policy context Para 16	Amendment to paragraph 16 as follows: 'The appropriate mix of tenures is as set out in JCS policy 4. For sites of 5-9 dwellings and 10-15 dwellings, tenure is to be agreed on a site by site basis. On sites of 16 or more dwellings a split of 85% social rented and 15% intermediate tenures is advocated. However, in accordance with JCS policy 4, this can be negotiated in exceptional circumstances and/or where certain tenures are not appropriate in specific areas of the city. <u>The publication of any new SHMA may update the required tenure split. This document will be updated as necessary thereafter including any calculations in Appendix 3.</u>	The final sentence has been added to provide clarity on how this document will be updated following publication of any future Strategic Housing Market Assessment (SHMA).
Page 7/Local policy context Para 17	Amendment to paragraph 17 as follows: 'It is current practice to accept affordable rent dwellings <u>only where a developer can provide evidence that social rent is unviable or where evidence is provided that registered providers (RPs) will not accept social rented dwellings.</u> because registered providers (RPs) are currently not taking on dwellings provided under social rent tenure. It is considered preferable to accept affordable rent dwellings on-site, rather than a commuted sum as this helps build sustainable mixed communities.	Amended to provide clarification of when affordable rent tenures will be accepted.
Page 8/Local policy context Para 26	Inclusion of a new paragraph as follows: ' <u>For clarity, the Broads Authority does not have a strategic housing function. Policy DP23 of the adopted <i>Broads Authority Development management policies development plan document</i> (2011-2021) states that the Broads Authority applies the policies of its constituent District Councils (in both Norfolk and Suffolk) regarding affordable housing. Therefore, this SPD will also apply to housing proposals within the Broads Authority area.</u> <u>All other adjoining authorities will produce their own SPDs as necessary.</u>	Change made in response to comments received from the Broads Authority during consultation. Commentary has been added on how the Broads Authority will use this SPD when determining applications within their authority area.
Pages 6-9/Local policy context Paras - various	Inclusion of new sub-headings: ' <u>Affordable housing design</u> ', ' <u>Residential Institutions</u> ', ' <u>Application requirements</u> ', ' <u>How adjoining authorities will use this document</u> ', ' <u>Artificial sub-division of sites</u> ', and ' <u>Hybrid applications</u> '.	For clarification and ease of use of the document
Page 9/Local policy context Para 29	Inclusion of a new paragraph as follows: ' <u>Sites which are proposed to be developed partly under permitted development rights as outlined in The Town and Country Planning (General Permitted Development) Order 1995 (as amended), and partly requiring planning permission will be considered on a case by case basis regarding viability and resulting planning obligations.</u> '	Commentary added to provide guidance on how applications which are proposed to be developed partly under permitted development rights, and partly requiring planning permission, are to be considered.
Page 13-	Insertion of a new 'Section 4' to cover the changes in national legislation and resulting	Changes made to national policy which impact on

15/Changes in national legislation	implications for the Joint Core Strategy policy 4. Additional information on how the vacant building credit will be calculated. New section appended to this document at Appendix 1.	how JCS policy 4 is implemented is detailed. Clarification of how the 'vacant building credit' will be calculated including changes made in response to the focused re-consultation from Planning Issues.
Page 17/Establishing development viability Para 52	Inclusion of the following sentences at the end of paragraph 52 as follows: <u>'The council will expect the developer to pay for such independent assessment and the costs of this can be added to the viability assessment.'</u>	Change made in response to comments received from the Broads Authority during consultation. Although this is also made explicit elsewhere in the document, for clarity it has also been referred to here.
Page 20/Reduced on-site AH Para 63	Amend paragraph 63 as follows: 'Provision of affordable housing on site is the council's preferred approach. However, taking a flexible approach, if non-viability of development with a policy compliant level of affordable housing can be demonstrated <u>via an open book viability assessment (see Appendix 4)</u> , then reduced provision on-site will be considered in the first instance. <u>As set out in Section 11, any viability assessment submitted to support non-viability of development should set out all sensitivity testing that has been undertaken.'</u>	For clarification and in response to comments received by the Broads Authority that reference to sensitivity testing should be made.
Page 20/Reduced on-site AH Para 64	Amendment of reference to paragraphs 14-17 for affordable housing design to paragraphs 19-21.	Factual update following insertion of new paragraphs.
Page 22/Off-site AH Para 73	Amendment to reference to paragraph 16 to paragraph 20.	Factual update following insertion of new paragraphs.
Page 22/Off-site AH Para 74	Amendment to final sentence of paragraph 74 as follows: 'However, in recognition of local evidence, and in the light of government statements about the need for flexibility in the planning system and recognition of the need to stimulate the development economy to increase the rate of provision of homes and jobs, it is considered that, in the following <u>certain</u> circumstances <u>it is pragmatic to accept the</u> provision of off-site affordable housing via a commuted sum <u>to ensure sites are not stalled and much needed housing can be delivered</u> will be acceptable.'	To allow for flexibility in the application of the examples outlined and to ensure that cases can be assessed on their own merits.

Pages 22-23/Off-site AH Para 74	Amendment to headings from 'criterion' to 'examples'. Amendment to the final sentence of 'Example 3' as follows: 'Each application will be considered on its own merits. City council officers can advise further about the level of evidence that will be necessary to be submitted in relation to both matters.	To allow for flexibility in the application of the examples outlined and to ensure that cases can be assessed on their own merits. Detailed guidance on the detail to be submitted in viability assessments is now included in Appendix 4 of the SPD.
Page 26/Off-site AH Para 75	Amendment to paragraph 75 as follows: 'Where it is accepted <u>demonstrated</u> that a development <u>is unviable if a fully policy compliant scheme is sought, or where reduced on-site provision cannot be provided,</u> meets any of the 3 criteria outlined above then a commuted sum for provision of off-site affordable housing will be accepted.	For clarification and following changes as listed above at page 22/para 74.
Page 23/Off-site AH Para 76	Amend reference to 'flats' to 'units' throughout the paragraph	For clarification
Page 23/Off-site AH Para 80	Amend paragraph 80 as follows: 'The commuted sum must <u>will</u> be spent on the provision of affordable housing within 1km the same electoral ward, or adjacent electoral ward to <u>of</u> the site from which the sum was received in order to ensure balanced and mixed communities are created as a result of the development, albeit, not on site. However, in the instance that a <u>suitable site cannot be identified by the Council such provision within 1km is not practical, feasible or viable</u> itself, the commuted sum will be able to be spent on provision of affordable housing city wide.	It is considered that 1km is too restrictive. Extending the area is likely to give rise to more opportunity for AH development to occur whilst also ensuring balanced and mixed communities are formed.
Page 24/Section 106BA applications Para 84	Amendment to last sentence of paragraph 84 as follows: 'The council will look to agree alternative timescales <u>for a decision through the use of a post-application agreement with the developer</u> for consideration of such application with the applicant.	For clarification
Page 24/Section 106BA applications Para 85	Inclusion of the words 'Section 106' in the first sentence. Addition of the final sentence as follows: ' <u>If the scheme is of such a size and complexity that would render this unlikely,</u> alternative timescales will be agreed on a case by case basis.'	For clarification

<p>Page 26-27/Viability assessment requirements</p> <p>Para 92</p>	<p>Amendments to the order and language of the bullet points following this paragraph as follows:</p> <ul style="list-style-type: none"> • the applicant should provide a brief covering report providing an overview of why the viability case is being made. This should detail the viability case being made <u>and</u> what the issue is. <u>The report</u> # should be clear on the request / offer that is being made (i.e. the extent of departure from Policy compliance considered necessary) and the reasons why, in the applicant's view, this should be considered; • the report should be accompanied by the supporting information / evidence associated with the viability assessment <u>including</u>: <ul style="list-style-type: none"> ○ and appraisal(s) / sensitivity tests, for example ○ a detailed costs plan (prepared by a Quantity Surveyor), ○ appropriate evidence to support the existing land use valuation, and ○ evidence of comparable sales in the area to support the projected sales value for the proposed units; • the appraisals content and summaries should be supplied in PDFs. In addition, a "live" (functional) appraisal version(s) should also be submitted in order to aid the review process and enable the independent assessor to examine the data across a range of scenarios; • appraisal(s) should be consistent with, and clearly linked to the written submission / covering report; • <u>applicants should provide a policy compliant viability assessment to illustrate the viability issues as a baseline;</u> • appraisals should show the optimum planning obligations position that can be reached, in the opinion of the applicant, based on their viability assessment; • if sensitivity analysis has been carried out, an explanation of sensitivity assumptions should be provided. • <u>a development appraisal toolkit, which incorporates a cash flow analysis, should be used, for example the Homes and Communities Agency (HCA) Development Appraisal Tool (DAT). The toolkit to be used should be agreed prior to submission;</u> 	<p>Change made in response to comments received from the Broads Authority during consultation.</p>
<p>Pages 31-32/Appendix 3</p>	<p>Figures updated as at February 2015. Formulae amended following removal of AH contributions on sites of up to and including 10 dwellings.</p>	<p>Figures not updated since 2011.</p>

Page 34/Appendix 4	Inclusion of the following bullet point under 'scheme description/details to include': <ul style="list-style-type: none"> o <u>evidence of consideration of affordable housing requirements in the design process as part of the scheme</u> 	For clarification
Page 35/Appendix 4	Amendment of the final bullet point under 'value of site/premises' as follows: <ul style="list-style-type: none"> o land purchase and timing details may be relevant – including background, basis / planning assumption, any conditions, etc. The value of the site should normally be based on the Existing Use Value with a premium to allow for a reasonable profit for the landowner. Only in exceptional circumstances will an Alternative Use Value be acceptable (such as an extant permission/site allocation for alternative use). Evidence of how the Existing Use Value has been calculated will need to be provided. Land purchase and timing details may be relevant including background, basis/planning assumption, any conditions etc. <u>The value of the site should normally be based on the Existing Use Value with a premium to allow for a reasonable profit for the landowner. An alternative use value may be considered acceptable where it can be clearly evidenced, eg where an extant permission or allocation exists. Evidence of how the Existing Use Value or Alternative Use Value has been calculated will need to be provided.</u> 	Change made in response to comments received from NPS during consultation and to explain when an 'alternative use value' will be considered.
Page 35/Appendix 4	Inclusion of a footnote against 'assumed sales value' to state that rental value will not be acceptable in the open book viability assessment on residential schemes.	For clarification
Page 36/Appendix 4	Inclusion of '(or successor document)' in the second bullet point under 'sustainability standards' to acknowledge that this document may be superseded.	Change made in response to comments received from the Broads Authority during consultation and to ensure that any successor document to the Code for Sustainable Homes is considered.
Pages 40- 45/Appendix 6	Inclusion of the following definitions within the Glossary: <p><u>Alternative Use Value: Where an alternative use can be readily identified as generating a higher value for a site, the value for this alternative use would be the market value with an assumption, as defined for Site Value for financial viability assessments for scheme specific planning applications.</u></p> <p><u>Benchmark: A comparator for either outputs or inputs into the appraisal, ie Site Value or developers return, etc.</u></p>	For clarity

Current Use Value: Market value for the continuing existing use of the site or property assuming all hope value is excluded, including value arising from any planning permission or alternative use. This also differs from the Existing Use Value. It is hypothetical in a market context as property generally does not transact on a CUV basis.

Current use Value (plus a premium): Used by some practitioners for establishing Site Value. The basis is as with CUV but then adds a premium (usually 10% to 40%) as an incentive for the landowners to sell. However, it does not reflect the market and is both arbitrary and inconsistent in practical application.

Existing Use Value: The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's-length transaction after properly marketing and where parties had each acted knowledgeably, prudently and without compulsion, assuming that the buyer is granted vacant possession of all parts of the property required by the business and disregarding potential alternative uses and any other characteristics of the property that would cause market value to differ from that needed to replace the remaining service potential at least costs.

Existing Use Value (plus a premium): Used by some practitioners for establishing Site Value. The basis is as with EUV but then adds a premium (usually 10% to 40%) as an incentive for the landowner to sell. However, it does not reflect the market and is both arbitrary and inconsistent in practical application.

Market Value: ~~The value of market housing.~~ The estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.

Site Value (for financial viability assessments for scheme specific planning applications): Market Value (MV) subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.

Page 46 / Appendix 7	Addition of a new appendix 7 to the SPD to contain the wording to be submitted as undertakings for legal fees. New Appendix 7 appended to this document in Appendix 2.	Change made in response to comments received from Development management officers.
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Appendix 1 – New Section 4 to be inserted in *Affordable housing supplementary planning document*.

4. Changes in national legislation and implications for JCS policy 4

40. In 2014 the government consulted on a proposed change to the threshold for affordable housing contributions so that only developments of over 10 dwellings, or a 1,000 square metre gross floorspace, would be liable for affordable housing contributions through Section 106 agreements. The Government considers that this will aid the delivery of housing small-scale sites and brownfield land.

41. The results were published by the Department for Communities and Local Government (CLG) and a ministerial statement was issued on the 28th November 2014 introducing the new threshold for affordable housing contributions as set out above. In addition, a ‘vacant building credit’ can now be offered to developers to incentivise them to develop sites. This applies where existing vacant buildings are proposed to be brought back into lawful use or demolished and redeveloped. This does not apply to buildings which have been abandoned.

The consultation response document can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/381349/Planning_Contributions__Section106_planning_obligations_.pdf

The ministerial statement can be found here:

<http://www.parliament.uk/documents/commons-vote-office/November%202014/28%20Nov%202014/2.%20DCLG-SupportForSmallScaleDevelopersCustomAndSelf-Builders.pdf>

42. As a result of this national planning policy change some parts of adopted JCS policy 4 can no longer be applied. In particular:

- bullet point 1 (requiring 20% affordable housing provision on sites of 5-9 dwellings) can no longer be applied at all, and
- bullet point 2 (requiring 30% affordable housing provision on sites of 10-15 dwellings) can now only apply to sites of 11 to 15 dwellings.

All other parts of the adopted JCS policy 4 will be applied in full.

Calculating the ‘vacant building credit’

43. Where the ‘vacant building credit’ is applicable, it will be calculated in the following way:

- a. The existing affordable housing requirement is outlined in bullet points 2 and 3 of JCS policy 4, ie for proposals of 11-15 dwellings 30% affordable housing will be required, for developments of 16 plus dwellings 33% affordable housing will be required.

- b. The net affordable housing requirement should be recalculated to take into account the two gross floor areas (the original building floorspace to be demolished or brought back into lawful use, and the proposed replacement building) to arrive at the net maximum affordable housing target for that site. The following formulae will be applied:

$$C / A \times \text{JCS policy requirement (0.30 or 0.33)} = D$$

A = proposed floorspace

B = existing floorspace

C = net additional floorspace (A-B)

D = Net affordable housing requirement

44. Once the affordable housing requirement has been calculated, all other parts of this SPD should then be applied to the affordable housing contribution.

45. For clarity, a worked example for a scheme of 26 dwellings is shown below (*the GIA schedule on the following page has been supplied with the application*):

- a. A = 1607.1
- b. B = 865
- c. C = 742.1
- d. D = $742.1 / 1607.1 \times 0.33$

The net affordable housing requirement is 15%

46. If, after such a calculation has been made, development of the site is still not viable, the following sections of this SPD will apply.

Proposed housing		
Plot	Beds	GIA Sqm
1	1	46.2
2	1	46.2
3	2	70.2
4	2	64.2
5	2	64.2
6	2	64.2
7	2	64.2
8	1	45.2
9	1	46.2
10	1	46.2
11	2	70.2
12	2	64.2
13	2	64.2
14	2	64.2
15	2	64.2
16	1	45.2
17	1	46.1
18	3	83.2
19	2	70.2
20	2	64.2
21	2	64.2
22	2	64.2
23	2	64.2
24	1	45.2
25	3	84.3
26	3	92.3
Total GIA		1607.1
Average GIA		61.8

Existing vacant retail floorspace	
Unit No	GIA Sqm
Unit 1	565
Unit 2	300
Total GIA	865

Example GIA schedule

Appendix 2: New Appendix 7 to the *Affordable housing supplementary planning document*.

Appendix 7: Wording for undertakings for legal fees.

Please note that a solicitors' undertaking to pay the City Council's legal fees for considering and negotiating the draft Section 106 Agreement is required before the draft is considered /can be supplied. Please therefore arrange for your solicitors to provide an undertaking in the following form as soon as possible:-

"Please accept this as our irrevocable undertaking to pay Norwich City Council's legal fees reasonably incurred in respect of the consideration, drafting and negotiation of the Section 106 Agreement up to and including the sum of £XXXX irrespective of whether the Agreement is completed, payment to be made within 7 days of demand in respect of any interim or final bill submitted by Norwich City Council. We acknowledge that this is an initial undertaking and not an estimate of fees which will depend on the actual time spent, and understand that if the costs in this matter exceed £XXXX then a further undertaking may be required."

You should also note that this is an initial undertaking and not an estimate of fees which will depend on the actual time spent. If the costs in this matter exceed £XXXX then a further undertaking will be required. In addition you may be required to pay fees on a 3 monthly basis if completion has not taken place within that timescale.