

Examination of the Tunbridge Wells
Borough Local Plan

**Tunbridge Wells Borough Council
Hearing Statement**

**Matter 8: Meeting Housing
Needs (Policies H1, H2, H3,
H4, H5, H6, H7, H8, H9, H10,
H11 and H12)
Issue 3: Affordable Housing**

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Matter 8 – Meeting Housing Needs (Policies H1, H2, H3, H4, H5, H6, H7, H8, H9, H10, H11 and H12)

Issue 3 – Affordable Housing

Inspector's Question 1: [re. affordable housing requirements]

What is the justification for requiring 40% affordable housing on qualifying greenfield sites and 30% on qualifying brownfield sites in Policy H3? What are the figures based on, how were they calculated and what alternatives were considered?

TWBC response to Question 1

Introduction

1. The overall need for affordable housing is addressed by the Council's Hearing Statement in response to Matter 2, Issue 2, Question 1 [TWLP/012]. This identifies the most recent assessment of need is that contained in the report: *Review of affordable housing needs in the context of 'First Homes', 2021* [[CD 3.76](#)]. This concludes that: *"Overall, the analysis suggests an annual need for around 323 affordable homes, this is made up of a gross need for 503 homes with a relet supply (of 180 homes per annum) being netted off."* (see paragraph 11 of the report).
2. The earlier Hearing Statement also compares this level of need to the overall housing need identified through the standard method. In effect, the affordable housing need of 323 dwellings per year (dpa) is equivalent to 47.6% of the overall proposed housing need of 678 dpa.
3. Given this very high proportion, viability assessment work was undertaken to determine the potential for increasing the existing Core Strategy requirement of 35% affordable housing on schemes of 10 or more dwellings (Core Policy 6 of [CD 3.118](#)).

4. The viability assessment of the Local Plan's overall policies is contained in the document: Local Plan & Community Infrastructure Levy Stage 1 Viability Assessment Final Report, August 2019 [[CD 3.54a](#) and its appendices]
5. This Assessment explores a range of potential affordable housing percentage targets as well as other variables. It is particularly important to note that the assessment has to be viewed in terms of the "best fit" of affordable housing proportions and tenure preferences.
6. As stated at paragraph 2.4.12 of the Stage 1 Assessment [[CD 3.54a](#) and its appendices], a range of potential affordable housing policy targets from 0% to 40% (depending on site size) have been tested and reviewed. Paragraph 3.1.2 clarifies that residential scheme typologies explored a wide range of affordable housing percentages: 0% (nil AH), 20%, 30/35% and 35/40%. Section 3.3 of the report presents the findings, which are summarised on Figure 11 (on digital page 108/113). It can be seen that this concludes: "*TWBC considers:*
 - *Not more than 20% AH/equivalent contribution on sites providing fewer than 10 dwellings, should any of those be included within the final policy scope (e.g. AONB vs general national policy threshold (NPPF) at 10 dwellings);*
 - *40% AH on greenfield developments of 10+ dwellings*
 - *A reduced (30%) AH on PDL developments of 10+ dwellings;*"
7. The affordable housing numbers assumed within each scheme scenario can be seen at Appendix I of the report, 'Development Appraisal Assumptions'.
8. Viability assessments for the strategic sites were addressed as part of the subsequent Stage 2 Viability Assessment, which also reviewed earlier assumptions and policy parameters, notably an increased level of accessible and adaptable homes. [[CD 3.65ai-av](#)] Overall, the Stage 2 assessment finds that the Stage 1 recommended affordable housing (AH) provision of 40% on greenfield sites and 30% AH on brownfield sites remains appropriate to the range of development and site types that are planned,.
9. With regard to the proposed large strategic sites at Paddock Wood (including land in east Capel) and Tudeley Village, it is recognised that the works and infrastructure costs will be significant. However, by including provision for 40% affordable housing at both

strategic sites, it concludes, at paragraph 3.2.11 that: “Overall, the results point to reasonable prospects of delivery based on the Council’s emerging LP policies, with no values growth (and cost inflation) or other / additional external funding or grant assumptions currently used.”

10. The Housing Supply and Trajectory Topic Paper [[CD 3.74](#)] sets out, at paragraphs 6.9-6.11, the reasoning in relation to varying the existing Core Strategy’s 35% affordable housing requirement to one of 40% affordable housing on greenfield sites and 30% on brownfield sites of 10+ dwellings. This revised approach is found to result in an additional 270 affordable housing units over the plan period, with the Viability Assessment showing an improvement of the viability of brownfield sites, thereby increasing the prospect of these sites coming forward and assisting policy objectives in relation to these sites.
11. It may also be noted that the Council has, in recent years, successfully negotiated to secure 40% affordable housing (some of which are at the tenure mix in the Submission Local Plan) on some major greenfield sites which have been consented through the development management process.

Inspector’s Question 2: [re. affordable home ownership]

Paragraph 65 of the Framework states that where major development involving the provision of housing is proposed, planning policies should expect at least 10% of the total number of homes to be available for affordable home ownership. How will this be secured by the Plan?

TWBC response to Question 2

12. The provision of NPPF paragraph 65 relating to the 10% of the total number of homes being available for affordable home ownership (subject to a number of exemptions) as part of the overall affordable housing contribution from a site can be seen in the following percentages, based on the requirements of Policy H 3 Affordable Housing:

	% of total dwellings on greenfield sites	% of total dwellings on brownfield sites
Total dwellings	100%	100%
Market dwellings	60%	70%
All Affordable dwellings	40%	30%
Rented affordable (60%)	24%	18%
Intermediate tenures (40%)	16%	12%

13. For clarity, and as stated in the supporting text to this policy, at paragraph 6.327 of the Submission Local Plan, “*The routes to ownership for those who could achieve home ownership through the market and which are also treated as affordable housing, are collectively referred to below as ‘intermediate housing’.*”
14. The above definition is consistent with that in the Glossary of the NPPF, which identifies ‘Starter homes’, ‘Discounted market sales housing’ and ‘Other affordable routes to home ownership’ (all suitably defined) as all providing a subsidised route to home ownership.
15. Hence, the tenure split within Policy H 3 will provide at least the 10% expected by NPPF paragraph 65; in fact, it will be in excess of the minimum, at either 16% or 12%.
16. As for affordable housing as a whole, the tenure split will be secured through a s106 Agreement, in line with established practice.

Inspector's Question 3: [re. affordable housing threshold in the AONB]

What is the justification for developments of 6-9 units providing a financial contribution towards affordable housing in the High Weald AONB? What is this threshold based on?

TWBC response to Question 3

Introduction

17. NPPF paragraph 64 states:

“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.”

The NPPF Glossary defines ‘Designated rural areas’ as: *“National Parks, Areas of Outstanding Natural Beauty and areas designated as ‘rural’ under Section 157 of the Housing Act 1985.”*

18. Hence, national policy allows for a local plan to seek affordable housing from schemes of less than 10 dwellings within AONBs.

Consideration

19. Locally, it is appropriate to look at such a lower threshold given:

- a) The relatively high overall level of affordable housing need across the borough¹
- b) The relatively limited scale of development proposed in the High Weald AONB²
- c) The policy context which means that most development in the AONB is small-scale³

20. The proposed threshold reflects two considerations, the first of which is viability. The Viability Assessment considered a number of housing typologies, including schemes of

¹ See ‘Housing Needs Assessment Topic Paper’ for the pre-Submission Local Plan [CD 3.73] pages 12-17

² See TWBC Hearing Statement on Matter 3, Issue 2, Question 6 [Document Reference: TWLP/015]

³ See NPPF paragraphs 176 and 177

1, 3, 5, 6 and 10 dwellings. Paragraph 3.3.10 shows the testing of AH to smaller schemes, while paragraph 3.3.24 finds that: “*At this stage, we suggest that on sites of fewer than 10 dwellings, if relevant bearing in mind the above, an AH policy aligned to a lower % provision/contribution level not exceeding 20% would be more suitable in viability terms than seeking say 30-40% on a flat-rate policy development impacting all scheme sizes.*”

21. Closer review of the ‘Residential Results Summary’ at Appendix IIa [[CD 3.54a](#)] which contains the respective assessments shows that a 20% affordable housing (AH) requirement impacts on viability at several lower value levels, while 5 dwellings is only unviable at the two lowest value levels, the situation is improved a little more for 6 dwellings.
22. Therefore, and recognising the sliding scale of viability and assumptions around CIL/s106 contributions, a threshold of five/six dwellings is most appropriate on viability grounds.
23. This approach is consistent with the wording of the NPPF and an earlier pre-cursor Written Ministerial Statement⁴ in November 2014 by the then Minister of State, Department for Communities and Local Government (Brandon Lewis) which states:

“For designated rural areas under Section 157 of the Housing Act 1985, which includes national parks and areas of outstanding natural beauty, authorities may choose to implement a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions. Within these designated areas, if the 5-unit threshold is implemented then payment of affordable housing and tariff style contributions on developments of between six to ten units should also be sought as a cash payment only and be commuted until after completion of units within the development.”

(TWBC underlining)

⁴
<https://publications.parliament.uk/pa/cm201415/cmhansrd/cm141128/wmstext/141128m0001.htm#1411284200008>

24. [PPG](#) Paragraph: 023 Reference ID: 23b-023-20190901 states:

“In designated rural areas local planning authorities may instead choose to set their own lower threshold in plans and seek affordable housing contributions from developments above that threshold. Designated rural areas applies to rural areas described under [section 157\(1\) of the Housing Act 1985](#), which includes National Parks and Areas of Outstanding Natural Beauty.” (TWBC underlining)

Conclusion

25. The Council concludes that the evidence of local housing need, together with the prevalence of smaller schemes in the High Weald AONB warrants utilising the discretion afforded by the NPPF for a lower threshold there, the level of which is supported by viability evidence, as well as being robust in terms of the interpretation of the NPPF on this issue.

Inspector's Question 4: [re. First Homes]

Where First Homes are concerned, the PPG states that where local plans have reached advanced stages of preparation, they will benefit from transitional arrangements and will not need to reflect the First Homes policy requirement.⁵ It also states that in such circumstances, consideration should be given to the need for an early update of the Plan.⁶ Is this necessary for soundness?

TWBC response to Question 4

Introduction

26. As highlighted in the Question, 'First Homes' are currently in the process of being introduced, with transitional arrangements for Local Plans at an advanced stage. Paragraph 018 of the First Homes PPG (see footnote 6 below) sets out that: "*Local plans and neighbourhood plans submitted for examination* before 28 June 2021, or that have reached publication stage** by 28 June 2021 and subsequently submitted for examination* by 28 December 2021, will not be required to reflect the First Homes policy requirement.*"
27. Hence, the Local Plan obligations in relation to First Homes are clear, namely that the Tunbridge Wells Borough Local Plan is not required to make provision for First Homes.
28. At the same time, the PPG sets out that, in relation to decision-making, the new First Homes requirement applies to sites which are determined now (since 28 March 2022) unless there has been significant pre-application engagement.
29. Therefore, it is prudent to give consideration to whether it is appropriate to put forward an amendment to Policy H 3 Affordable Housing at this point, as well as the implications of not doing so in terms of a future review.

Consideration

30. The Council has already sought advice on the approach to First Homes, which is provided in the report Review of affordable housing needs in the context of 'First Homes', 2021 [[CD 3.76](#)]. In addition, it has very recently commissioned further viability

⁵ Paragraph: 018 Reference ID: 70-018-20210524

⁶ Paragraph: 019 Reference ID: 70-019-20210524

advice in relation to the matter, with particular consideration of the level of discount to be provided, also having regard to the first sale price cap. This advice will also inform the Council's consideration of how to approach First Homes in a Development Management as well as policy context.

31. Of particular significance, and relevant to the above Question, is the relationship of the First Homes provisions with Policy H 3 as drafted, which is reviewed below.

32. For clarity, Policy H 3 sets out:

“Tenure

The general approach to tenure provision of on-site affordable housing should be that 60 percent is provided as social rent and 40 percent as intermediate tenures or other affordable routes to home ownership, subject to consideration of any subsequent local policy and/or evidence.”

33. First Homes (like Starter Homes) fall within the 40% element for ‘intermediate tenures or other affordable routes to home ownership’. Indeed, this is specifically acknowledged in the supporting text, at paragraph 6.336, as follows:

“The analysis, including regard to household preferences, also points towards a need to provide some housing as affordable home ownership (i.e. intermediate housing) which would normally be in the form of shared ownership. It could also include First Homes in the future, where this is genuinely affordable in a local context. Overall, it is considered that affordable housing provision should normally involve 60% social rented and 40% intermediate tenures.”

34. Although the NPPF has not yet been updated to refer to First Homes, national policy was set out in a [Written Ministerial Statement](#) published on 24 May 2021 (WMS). This sets out that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. Further details of the requirements are contained in new [PPG](#) that was issued concurrently.

35. It is evident that this 25% requirement can be accommodated within the 40% for intermediate tenures. The balance of 15% would be for other such tenures (or further First Homes).

36. The WMS also provides discretion to plan-making bodies to vary the default provisions of First Homes in relation to:
- The minimum discount of 30% against market value
 - The first sale cap of £250,000
 - The income cap of £80,000
37. Having reviewed available evidence, the Council does not believe that it is appropriate to seek to vary any of the above thresholds, either through the Local Plan or in Development Management.
38. Therefore, it is concluded that there is no imperative to amend the Local Plan in the light of the Homes national policy provisions. It also follows that there is no need to undertake an early review of the Local Plan because of any conflict with these provisions.
39. Notwithstanding this conclusion, subject to the Inspector's own consideration of this, and other, matters, the Council would give further consideration to whether there is a need to clarify this position further through a potential modification.

Conclusion

40. It is the Council's considered view that there is no need to amend Policy H3 where First Homes are concerned, given its advanced stages of preparation.
41. Moreover, that there is no need for an early update of the Plan for soundness, given the scope provided for First Homes in the Local Plan policy and the fact that the Council does not anticipate varying from the national default policy requirements.

Inspector's Question 5: [re. phasing of affordable housing]

What is the justification for requiring a minimum of 50% of the affordable housing to be delivered on-site prior to completion of 50% of the open market units approved? Is this viable and deliverable?

TWBC response to Question 5

42. Policy H 3 sets out, as criterion 3 of the 'Overall Approach' that:

"Timing of affordable on-site housing provision: a minimum of 50 percent of the affordable housing to be delivered on-site will be expected to be completed and transferred to a Register provider prior to occupation of a maximum of 50 percent of the open market units to be provided on-site;"

43. This is regarded as a reasonable provision to ensure timely delivery of affordable housing as an integral part of residential schemes, which is regarded as supporting social inclusion. In essence, it requires that the construction of the affordable units keeps pace with the open market ones. It also provides an effective means of identifying any issues with the delivery of the affordable units before the development is nearing completion – and potentially harder to enforce – as well as promoting early engagement with a Registered Provider.
44. In particular, this criterion guards against the partial completion of a development ahead of the provision of the affordable homes.
45. In relation to viability, the Viability Assessment undertaken by Dixon Searle Partnership assumes that the affordable units would be built concurrently with the open market ones, which is essentially the expectation of the policy.
46. In terms of deliverability, it is noted that prior construction and/or transfer to a Registered Provider is established practice and is routinely incorporated into s106 Agreements. It is recognised that, in the absence of a policy, practice varies at present, with recent examples shown in the table 1 below.
47. While there are variations, reflecting the absence of a clear policy expectation, it is evident that there is a general acceptance of constructing affordable homes in parallel with open market ones.

Site	Land E of Highgate Hill/Copthall Avenue, Hawkhurst	Maidstone Road, Matfield	Turnden, Cranbrook
Decision	Appeal allowed	PP	Awaiting appeal decision
Date	27-01-22	25-10-21	30-03-21
Application ref.	20/0788/FULL	19/01099	
Phasing	a) Max 50% occupation of open market dwellings only when contract signed with RP b) Max 80% market dwellings occupied when all AH complete	Max 40% occupation of open market (OM) dwellings, all AH built	a) Max 25% OM only when 25% AH completed b) Max 50% OM only when remaining AH built

48. In conclusion, it is appropriate, and necessary, to include a phasing requirement, effectively requiring that affordable homes are constructed in parallel with open market homes, supported by a clear enforceable policy provision. This is found to be viable. While site circumstances may, on occasion, justify some variation around the 50% norm, it is regarded as a robust policy presumption.

Inspector's Question 6: [re. local connection]

What is the justification for requiring all forms of affordable housing to be provided on the basis of a local connection?

TWBC response to Question 6

Introduction

49. In essence, the requirements for affordable housing stem from the demonstrable local need, as identified in the Review of affordable housing needs in the context of 'First Homes', 2021 [CD 3.76]. It follows that actual provision should relate to this need.
50. Such a 'cascade' approach is well-established in respect of 'rural exception' sites, but the supply from such sites is acknowledged to be limited. By applying similar criteria to 's106' sites performs a similar role in helping meet housing needs locally.
51. Of note, the PPG in relation to First Homes – which is a form of affordable housing beyond the rented sector – states, at Paragraph 008, that: "*First Homes are designed to allow people to get on the housing ladder in their local area, and in particular to ensure that key workers providing essential services are able to buy homes in the areas where they work.*" (TWBC underlining)
52. In addition, there is understandably strong support for priority to local people. The local connection cascade set out in Policy H3 mirrors that currently incorporated into s106 Agreements, including for those permissions listed in response to the previous question; that is, firstly connection to the parish, then neighbouring parishes, then the borough, then the wider area.
53. It is appreciated that local connection criteria typically are applied to rented affordable homes, as the local housing authority have nomination rights. However, the wider application is also practicable, subject to any cascade providing an ultimate 'long-stop' that anyone, even if outside the borough, would duly be eligible.
54. In summary, the fundamental justification for applying a local connection approach is that the Local Plan's policies for affordable housing stem from the identification of local need for those people whose needs are not met by the market. This covers the full range of tenure opportunities. It follows that supply should be geared to meet those needs – which is found to be practicable, as provided for by the policy.