

Guidance on affordable housing contributions secured through section 106 planning agreements.

Introduction

This guidance note sets out the Borough Council's approach towards affordable housing when considering planning applications.

It should be read in conjunction with the separate Affordable Housing Policy document and Core Strategy Policy CS09.

Principle of approach

The principle behind affordable housing contributions (whether commonly provided on site or via a commuted sum payment) are well established nationally in that qualifying residential development must contribute to the provision of new affordable housing in the local authority area to help address the housing need in the area. The costs associated with making this contribution are met from the capital uplift derived from the development process.

The Council will seek an affordable housing contribution by means of an obligation to transfer completed dwellings (the type of which commonly reflect the types being provided as part of the development) to a Private Registered Provider of Social Housing (PRPSH). The approach will seek to ensure that affordable housing is 'mixed' and is dispersed amongst private housing.

The values of affordable housing

Affordable housing dwellings will be sold to a PRPSH at a price that reflects a sum that could be raised typically over 30 years given regard to the income stream of the affordable dwellings (subject to prevailing target rents). A developer may seek offers for the affordable housing from a number of PRPSH. It is recommended that a developer contacts the Strategic Housing team at the earliest opportunity to assist with the engagement of an PRPSH.

The Core Strategy - Affordable Housing Policy

The Core Strategy was adopted in July 2011. It guides development and the use of land up to 2026, steers and shapes new development and sets out the long term plans for the borough.

The Core Strategy and the Site Allocations and Development Management Policies Plan have been reviewed and combined to create a new draft document. The Local Plan review sets out a strategy and detail for delivering growth in the borough. It identified where development should be located and how it should be delivered up to 2036. It is hoped the Local Plan review will be adopted in 2021.

The existing policy CS09 requires the following;

On qualifying sites the percentage which will be sought for affordable housing provision is:

- 15% within the built up area of King's Lynn
- 20% in all other areas

The thresholds over which affordable housing provision will be sought are:

- King's Lynn, Downham Market and Hunstanton – Sites of 0.33ha or 10 or more dwellings.
- Rural areas – Sites of 0.165ha or 5 or more dwellings.

NPPF - Affordable Housing

The National Planning Policy Framework was first published March 2012, revised in July 2018 and again in February 2019.

It states 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).

It defines major developments as 'For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more'.

Designated Rural Areas

Discretion has been given to Local Authorities in certain areas to have a lower 5 unit threshold as opposed to 10. The option of applying a lower threshold only applies to Local Authorities who have;

- Designated rural areas under section 157 of the Housing Act 1985
- Areas of Outstanding Natural Beauty
- National Parks

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, below which affordable housing and tariff style contributions should not be sought.

95 out of the 101 parishes in West Norfolk have designated rural area status under section 157 of the Housing Act 1985 and are therefore eligible for the lower threshold. The remaining 6 parishes that are not listed are as follows;

- Dersingham,
- Downham Market
- Heacham

- Hunstanton,
- South Wootton
- Terrington St Clement.

In these areas along with the unparished area of King's Lynn town the 10 threshold applies ie affordable housing contributions can only be sought on sites of 10 dwellings or site area 0.5ha or more.

Settlements in an Area of Outstanding Natural Beauty (AONB) are also eligible for the lower threshold. The majority of AONB areas in the Borough fall within designated rural areas and therefore the lower threshold of 5 already applies. However, for any developments coming forward in an AONB within a non-designated rural area (these are likely to be within the 'parish' but outside of the named settlement) the 5 threshold will also apply. A map highlighting these areas can be found at appendix A.

These changes will not apply to Rural Exception Sites which, subject to the local area demonstrating sufficient need, remain available to support the delivery of affordable homes for local people.

The Borough approach

The council has adopted the option offered by Government to seek the provision of **financial contributions** towards affordable housing in the Borough on sites between 6 and 9 units in designated rural areas and with a site area of under 0.5ha.

An affordable housing contribution will be sought on development sites which meet the thresholds of Policy CS09 and NPPF.

For the avoidance of doubt no affordable housing contributions of any kind will be sought on sites of 5 dwellings or less where the site area does not exceed 0.5ha.

For sites of 4 units or less where the site area is 0.5ha or above, if the case officer deems the site as capable of accommodating 5 or more units, on site affordable housing will be sought as per Policy CS09.

The thresholds and proportions applied at the time planning permission is granted will remain for the duration of permission. If the permission expires or a new planning application is submitted the prevailing proportions and thresholds used by the Council at the time of submission will apply.

Applicable Development

The expectations in relation to affordable housing requirements in respect of existing dwellings or conversions are set out below;

- 1) Replacement of an existing dwelling – Where an existing dwelling (or dwellings) is to be demolished and replaced with substantially the same type of dwelling no affordable housing contribution will be sought. Essentially no

'additional' development is being created, and therefore no development uplift will be created.

- 2) Conversion-The conversion of an existing building to a dwelling or dwellings will not require an affordable housing contribution. Where the existing building is vacant, a vacant building credit will be applied.
- 3) Vacant Building Credit – A vacant building credit will be applied where applicable.

The type of affordable housing sought

The Council will seek a mix of affordable housing types that reflect the mix on the development site, but also gives regard to current housing need. The tenure will reflect the Councils existing affordable housing policy in seeking a rent to shared ownership (or other intermediate tenure by agreement) ratio of 70:30.

Provision of affordable housing on site or as a cash equivalent

In seeking developer contributions, the presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing. However, where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area.

There may be exceptional circumstances where it is considered appropriate to accept a cash equivalent in lieu of affordable housing on site. It is envisaged such circumstances are likely to be very limited.

How we deal with fractions of affordable units

- On sites of 10 dwellings or more the number of affordable dwellings required will be rounded up or down to the nearest whole number e.g. 13.6 would become 14 and 13.4 would become 13.
- On sites of less than 10 dwellings any proportions of less than a dwelling can be received as a cash equivalent sum without rounding up or down. e.g. 1.6 dwellings would equate to 1 affordable dwelling and 0.6 dwelling cash sum equivalent. In the case of 0.8 dwelling a cash sum equivalent to 0.8 dwellings would be required.

Calculating cash equivalent payments

National guidance suggests that cash equivalent sums should be broadly equivalent to the cost of providing affordable housing on site. The Council favours a fixed sum as an affordable housing contribution rather than using a formula. The sum sought will be £60,000 per equivalent whole dwelling.

Example

A rural site of 8 dwellings would attract a 20% affordable housing contribution (from policy CS09) 20% of 8 is equal to 1.6 units. Therefore one dwelling would be provided plus a fraction of 0.6 of a dwelling would be provided as a cash sum. The cash sum sought would be £36,000 (0.6 of £60,000)

Viability

Paragraph 57 of the NPPF states

“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

In accordance with the above, a viability assessment will only be considered at the planning application stage if the following criteria has been met

- The applicant has demonstrated satisfactorily that particular circumstances justify the need to review viability;
- The viability appraisal submitted uses the assumptions of the Community Infrastructure Levy (CIL) Post PDCS Viability Update (March 2016) as the starting point; and
- The viability appraisal submitted follows the recommended approach set out in NPPG including standardised inputs

Allocations made through the Local Plan

Sites allocated in the Local Plan are expected to come forward with at least the number stated in the allocation. For any applications submitted lower than the allocation, the affordable housing contributions will be based upon the allocated number unless it can demonstrated that the site is no longer capable of accommodating the number of units stated in the allocation..

Example – an allocation for at least 15 units comes forward with a planning application for 12 units. A 20% affordable housing contribution will be based on 15 units. 3 affordable units would be sought.

Pre-application discussions

Before submitting a plan for outline or full planning permission it is usual for the architect or agent, in conjunction with their client to discuss the proposal with a Planning Officer. On submission of a formal pre-application request clarification on the affordable housing requirements will be sought from the Strategic Housing team

by the Planning Officer. This will enable the architect or agent to ensure that the application meets the affordable housing requirements.

Although the Council cannot insist on it, it is recommended that the applicant contacts the Strategic Housing team to assist with involving a Registered Provider at the earliest opportunity.

Submission of a planning application

When submitting a planning application that triggers the affordable housing thresholds, a heads of terms should be submitted stating what affordable housing is being proposed. Please note that the application will not be validated until the heads of terms have been submitted.

Where a viability appraisal is being submitted alongside the application, it should be made clear within the heads of terms.

Any S106 agreements that are not agreed by all parties four months after the initial decision to approve will either be refused or in exceptional circumstances return to Planning Committee.

Worked examples of threshold changes

For clarity worked examples of the threshold changes are shown below;

Example A

A site of 8 dwellings comes forward in a designated rural parish and has a site area of **less 0.5ha**. Under policy CS09 a 20% affordable housing contribution would be sought.

20% of 8 = 1.6 dwellings

1 dwelling = £60,000

0.6 of £60,000 = £36,000

Total affordable housing contribution = £96,000

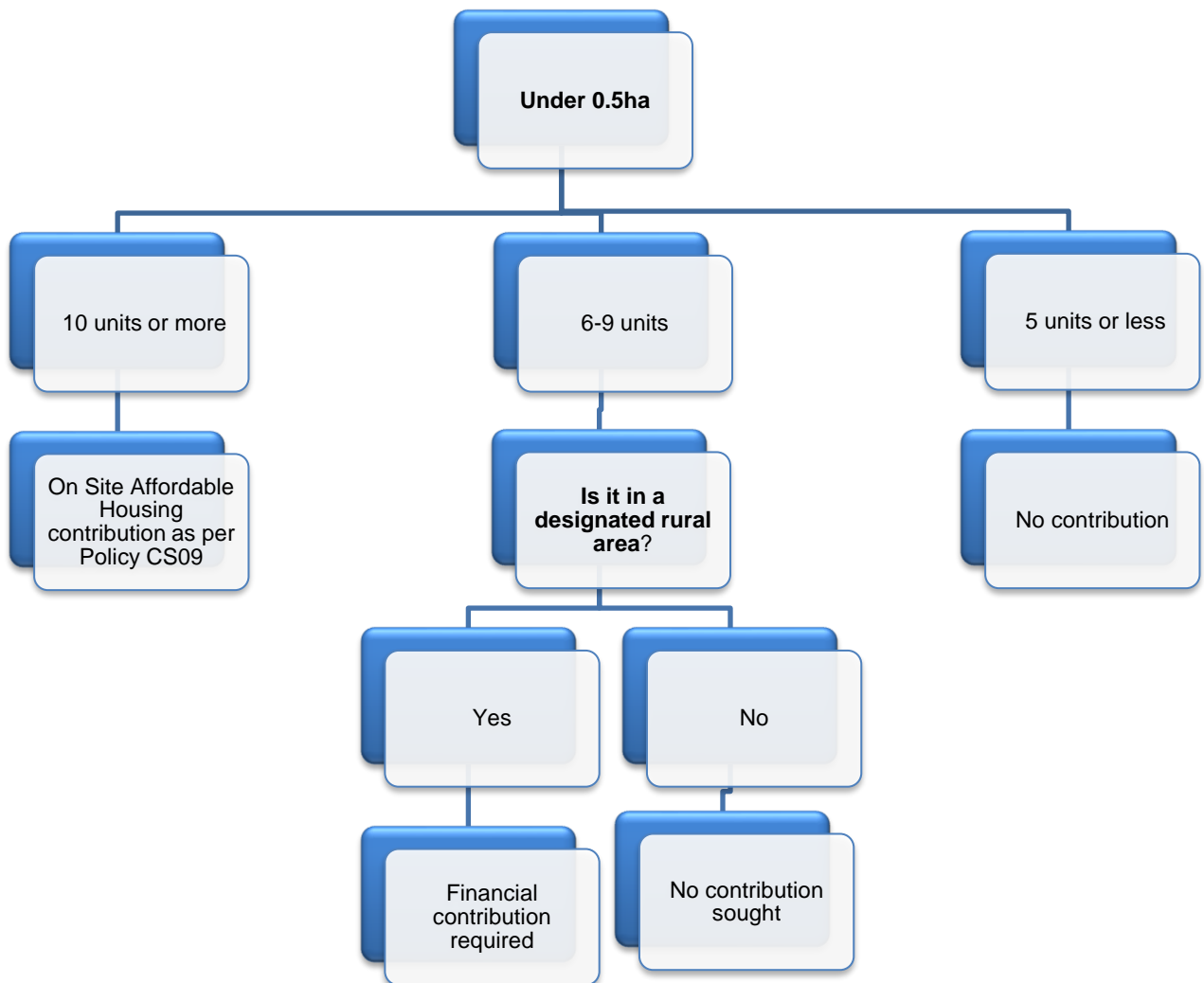
Example B

A site of 9 dwellings comes forward in King's Lynn, Hunstanton, Downham Market, Heacham, Dersingham, Terrington St Clement or South Wootton and has a site area of less than 0.5ha **No affordable housing contribution will be sought**

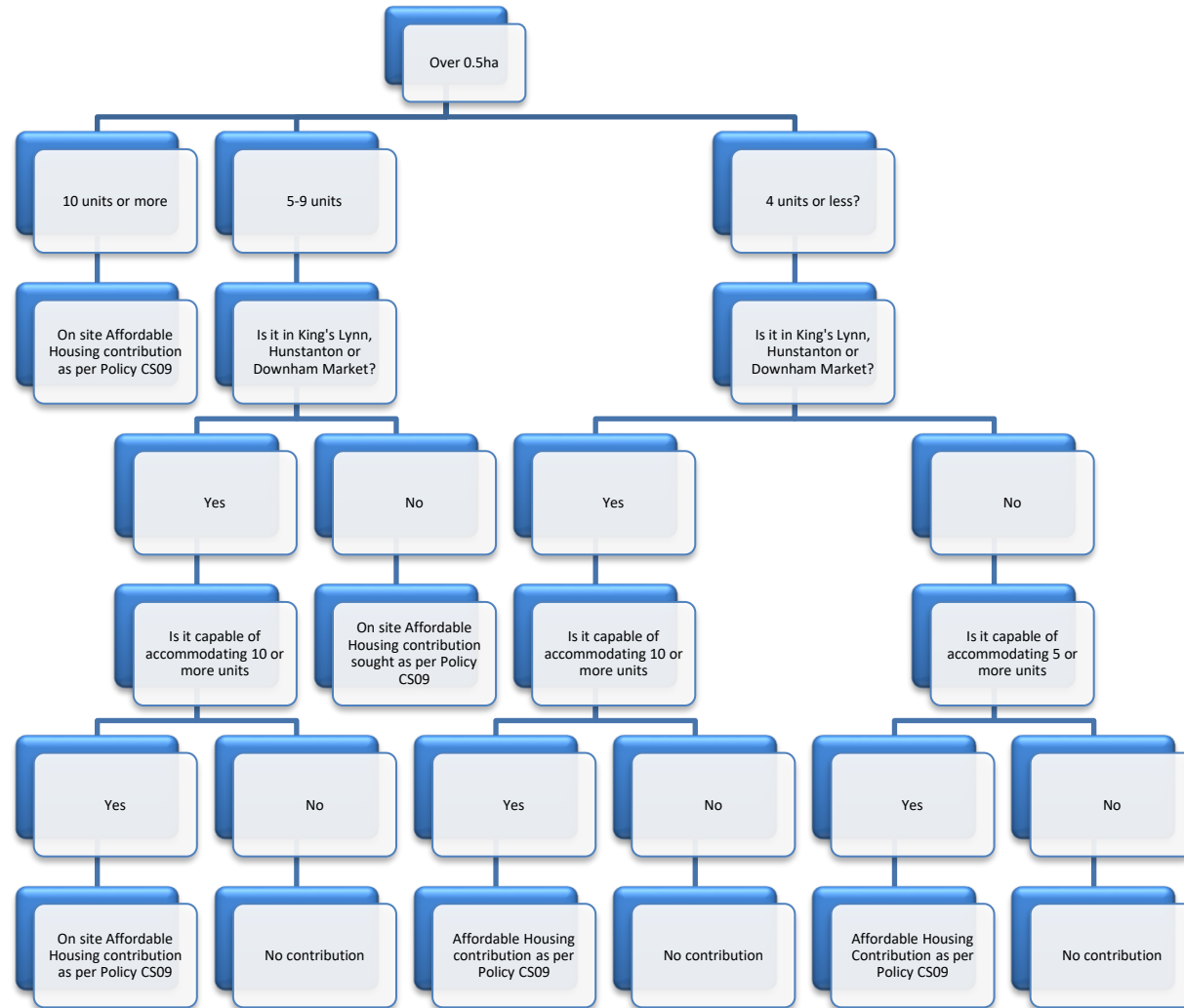
Example C

A scheme of 5 or less dwellings comes forward in any area of the Borough with a site area under 0.5ha. **No affordable housing contribution will be sought.**

Sites with an area of less than 0.5ha - Applying the national threshold



Sites with an area of more than 0.5ha - CS09 Policy thresholds apply



Gross Internal Area (GIA)

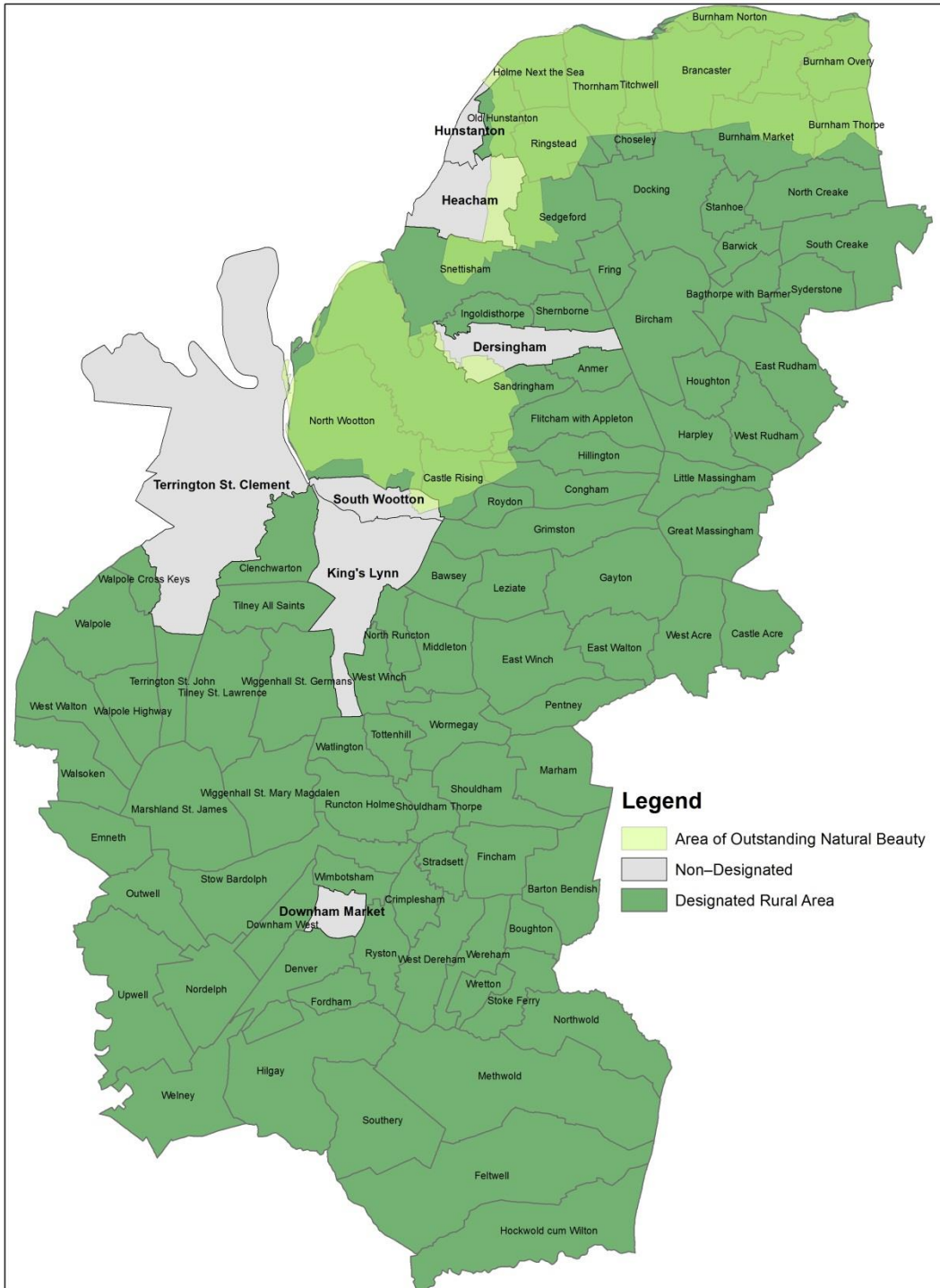
Gross Internal Area is the area of a building measured to the internal face of the perimeter walls at each floor level.



Including

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal balconies
- Structural, raked or stepped floors are to be treated as a level floor measured horizontally
- Horizontal floors, whether accessible or not, below structural, raked or stepped floors
- Mezzanine areas intended for use with permanent access
- 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
- Outbuildings which share at least one wall with the main building
- Loading bays
- Areas with a headroom of less than 1.5m
- Pavement vaults
- Garages
- Conservatories

Excluding

- Perimeter wall thickness and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Open vehicle parking areas, roof terraces, and the like
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential property



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