

**REPORT TO:** East Lothian Council

**MEETING DATE:** 26 February 2019

**BY:** Depute Chief Executive, Partnerships and Communities

**SUBJECT:** East Lothian Local Development Plan: Report on Consultation Responses on Supplementary Planning Guidance – Affordable Housing

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## **1 PURPOSE**

- 1.1 To inform Members of the results of the public consultation exercise on Supplementary Planning Guidance for Affordable Housing to the East Lothian Local Development Plan 2018.
- 1.2 To seek Members' approval for amendments to the supplementary planning guidance arising from the consultation responses received.
- 1.3 To seek Members' approval to adopt the supplementary planning guidance as amended.

## **2 RECOMMENDATIONS**

- 2.1 That Council approves the amendments proposed to the supplementary planning guidance arising from the consultation responses received.
- 2.2 That Council adopts the Supplementary Planning Guidance: Affordable Housing.
- 2.3 That the supplementary planning guidance be reviewed and updated every two years, unless there is a material change in the market. Any changes will be reported through the Members' Library Service.

## **3 BACKGROUND**

- 3.1 At its meeting of 26 June 2018 Council approved a draft consultation document for non-statutory Supplementary Planning Guidance: Affordable Housing.
- 3.2 The Council has now replaced the East Lothian Local Plan 2008 with a new Local Development Plan, the adopted East Lothian Local

Development Plan 2018 (ELLDP 2018), adopted as of 27 September 2018. The above non-statutory supplementary planning guidance to the Local Development Plan, if approved, would add further guidance to the plan's policies to guide decision makers.

- 3.3 Supplementary planning guidance is non-statutory and does not require the approval of Scottish Ministers. It provides detail on a range of subject areas and can be updated during the lifetime of the plan.
- 3.4 The intention is that matters to be addressed within non-statutory Supplementary Planning Guidance are those that would be too detailed for inclusion in the plan, but merit more detailed policy guidance to assist with the operation of policies or proposals and the delivery of the plan. The Supplementary Planning Guidance for Affordable Housing will supplement Policy HOU3: Affordable Housing Quota and Policy HOU4: Affordable housing Tenure Mix.
- 3.5 On 6 September 2016, the Council approved for consultation a draft of the Affordable Housing Supplementary Planning Guidance, which coincided with the representation period for the proposed LDP. Publicity was by way of advertisement, the Council's web page and consultation hub and direct contact with developers and housing providers.
- 3.6 The formal consultation which took place during the period 19 September 2016 to 7 November 2016 yielded no responses; however, there were responses received in relation to policies on affordable housing provision set out within the LDP. These responses were specific around the inclusion of 25% affordable housing for amenity, sheltered and retirement homes and were addressed within the Report of Examination of the Proposed ELLDP.
- 3.7 The guidance was redrafted to provide additional guidance and clarity for all those with an interest in affordable housing with specific reference to the following: Specialist Housing; updated eligibility criteria for Mid-Market Rent with revised income thresholds; updated eligibility criteria for discounted sale with revised house prices; and updated commuted sum figures.
- 3.8 This redraft was subsequently subject to further consultation to ensure statutory compliance and to ensure that stakeholders had the opportunity to comment on the updated version.
- 3.9 The further Consultative Draft Supplementary Planning Guidance was approved by Council for consultation on 26 June 2018 and formal consultation subsequently took place between 7 July 2018 and 17 August 2018. During this period a meeting was held with Homes for Scotland to discuss their concerns and at the end of this period a total of 9 organisations submitted their responses to the consultation.
- 3.10 All 9 responses to the draft Supplementary Planning Guidance have been considered with some areas being amended accordingly. These amendments will provide further clarity and substance for those with an interest in affordable housing. A full summary of the responses are attached in Appendix 2, however, the main areas of change include:

### **SPG – Affordable Housing February 2019 (Appendix 1): Chapter 3 - Evidence of Need**

While the consultative draft provides information on housing need, clarity was requested in relation to the need for social rented accommodation. Further detailed evidence is made available within the adopted Local Housing Strategy 2018 and Strategic Housing Investment Plan 2018/19-2023/24. Links to both documents are now referenced within this Proposed Supplementary Guidance.

### **SPG – Affordable Housing February 2019 (Appendix 1): Chapter 4 – Securing the Affordable Housing Contribution**

The Proposed Supplementary Guidance requires in all circumstances agreement must be reached between the applicant and the Strategic Housing Authority on all matters relating to the approach and delivery of affordable housing. All applicants must agree affordable housing locations, areas and numbers of units with the Strategic Housing Authority in advance of lodging any planning application in order to secure planning permission.

Applicants are encouraged to engage with the Council as early as possible to discuss key policy areas at outline stage.

Following this, applicants must agree locations, housing mix, types and design elements at planning application stage and a Section 75 agreement will conclude the consent with a trigger for agreeing the method as to how the units will be delivered.

A delivery schedule will then be required confirming the Affordable Housing Provider, delivery mechanism and tenure for each development. As a guide, the requirement will be to deliver a minimum of 80% social rented units with the remainder delivered through those other intermediate tenures set out in chapter six of the Supplementary Guidance.

The cascade provisions within the Section 75, outlined in chapter 4 will remain largely unchanged with the preferred provision being onsite delivery through serviced land or units. There will however be an additional option made available to developers through the delivery of units by adding the option to enter into a construction contract where the Affordable Housing Provider can do so as well introducing the option of staged payments as opposed to purchase on completion only.

### **SPG – Affordable Housing February 2019 (Appendix 1): Principles for Mid-Market Rent / Intermediate Rent (Appendix 1)**

The table providing detail of expected rent levels and income range has been amended to reflect the relevant Housing Market Areas.

- 3.11 This proposed SPG is intended to provide further information and detail on how the relevant policies of the ELLDP 2018 should be interpreted and applied. It provides a framework for the implementation of East Lothian Council's Affordable Housing Policy (as it relates to LDP policy i.e. quota, tenure mix, specialist provision etc.) and outlines the mechanisms by which

affordable housing can be delivered within a broader economic context. It aims to set out detailed guidance alongside the Strategic Development Plan (SDP1) and ELLDP 2018 policies on affordable housing. This proposed SPG on Affordable Housing has been prepared to:

- Set out information and advice to individuals and organisations with an interest in affordable housing
- Provide clarity in relation to the affordable housing requirement and contributions to be sought
- Promote transparency and consistency with regard to the developer's affordable housing obligations.

3.12 Following approval, this Supplementary Planning Guidance will be updated every two years or earlier if there are material changes within the market that require action. Any changes will be reported through the Members' Library Service.

3.13 A finalised version of the document is appended as Appendix 1 of this report. If approved the document will be published as adopted supplementary planning guidance to the ELLDP 2018.

#### **4 POLICY IMPLICATIONS**

4.1 The Supplementary Planning Guidance described within this report will become an essential component of delivering the strategy and policies of the ELLDP 2018.

#### **5 INTEGRATED IMPACT ASSESSMENT**

5.1 The subject of this report has been through the Integrated Impact Assessment process through the ELLDP 2018 and no negative impacts have been identified.

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – There are no direct financial implications associated with approval of this Proposed Supplementary Planning Guidance, although the delivery of subsequent Affordable Housing obligations will impact on the detailed financial planning over the term of the Strategic Housing Investment Plan and financial planning arrangements for the Council's HRA capital programme.

6.2 Personnel - none

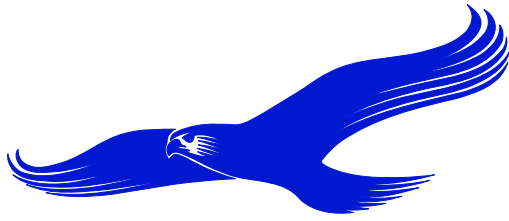
6.3 Other - none

## **7 BACKGROUND PAPERS**

- 7.1 East Lothian Local Development Plan – Proposed Supplementary Planning Guidance: Affordable Housing - Appendix 1 to this report.
- 7.2 Report to 26 June 2018 meeting of East Lothian Council: East Lothian Local Development Plan 2018 – Supplementary Guidance / Supplementary Planning Guidance Consultation.
- 7.3 Responses received to consultation as detailed in Appendix 2 to this report.

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<b>DATE</b>	12 February 2019





**East Lothian**  
Council

**Supplementary Planning Guidance:  
Affordable Housing  
February 2019**

## **Contents**

- 1. Introduction**
- 2. National and Local Strategic and Policy Context**
- 3. The Need for Affordable Housing**
- 4. Affordable Housing Contribution**
- 5. Delivery / Development Requirements**
- 6. Affordable Housing Tenures**
- 7. Partnership Working**
- 8. Monitoring and Review**

## **Appendices**

**Appendix 1: Delivery Schedule**

**Appendix 2: Principles for Mid-Market Rent/Intermediate Tenure Rent**

**Appendix 3: Target House Prices for Housing Ward Areas**

**Appendix 4: Guidance Note /Criteria for Unsubsidised Low Cost Home Ownership  
(Discounted Sale Model)**

**Appendix 5: Commuted Sums levels, April 2017-March 2019**

**Appendix 7: Contact List**



## 1. Purpose of Document

This Supplementary Planning Guidance (SPG) on Affordable Housing supplements *Policy HOU3: Affordable Housing Quota* and *Policy HOU4: Affordable Housing Tenure Mix* of the East Lothian Local Development Plan (LDP) 2018 in relation to the delivery of affordable housing. It sets out how the planning system can assist with facilitating the delivery of affordable housing.

This SPG is non-statutory and is intended to provide further information and detail on how the above policies of the East Lothian LDP 2018 should be interpreted and applied. As such it provides a framework for the implementation of East Lothian Council's Affordable Housing Policy (as it relates to LDP policy i.e. quota, tenure mix, specialist provision etc.) and outlines the mechanisms by which affordable housing can be delivered within a broader economic context. It aims to set out detailed guidance alongside the Strategic Development Plan (SDP) and LDP policies on affordable housing.

This SPG on Affordable Housing has been prepared to:

- Set out information and advice to individuals and organisations with an interest in affordable housing
- Provide clarity in relation to the affordable housing requirement and contributions to be sought
- Promote transparency and consistency with regard to the developer's affordable housing obligations.

## 2. National and Local Strategic and Policy Context

This SPG on Affordable Housing has been informed by the national and local strategic and policy context outlined as follows:

### 2.1 National Strategic and Policy Context

**Homes Fit for the 21<sup>st</sup> Century (2011)** – This policy paper sets out the Scottish Government’s Strategy and action plan for housing for the period 2011-20. It identifies a need to build new high quality affordable homes (including social housing) to meet need and demand from a growing and ageing population, including households on lower incomes.

**2.1.1 Scottish Planning Policy (2014)** - The only definition of affordable housing comes from Scottish Planning Policy (SPP), which defines affordable housing as:

*“Housing of reasonable quality that is affordable to people on modest incomes. In some places the market may be able to meet most affordable housing needs but this will not be the case everywhere. Affordable housing may be provided in the form of social rented accommodation; mid-market rented accommodation; shared ownership housing; shared equity housing; housing sold at a discount (including plots for self-build) and low-cost housing without subsidy” (SPP 2014).*

The term ‘affordable housing’ can be controversial and an emotive subject for many, as what may be affordable to some people, may not be for others. SPP states that where the Housing Need and Demand Assessment (HNDA) and Local Housing Strategy (LHS) identify a shortage of affordable housing, it should be addressed in the LDP as part of the housing land allocation. The HNDA provides the evidence base for defining housing supply targets in LHSs and allocating land for housing in LDPs.

SPP 2014 is supported by a wide range of Planning Advice Notes (PANs) including PAN 2/2010: Affordable Housing and Housing Land Audits (August 2010)<sup>1</sup>. This sets out information regarding technical planning matters and provides a statement of advice on developing planning policy in relation to affordable housing and housing land audits. It describes a range of tenure types that can contribute to affordable housing and alternative means of delivering affordable housing (considered in Section four of this SPG). The nature of the contribution is typically the provision of serviced land e.g. a proportion of the site which can be developed by or for the local authority or other affordable housing provider. PAN 2/2010 does stress that its advice must be applied constructively and with flexibility in response to financial and market conditions.

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<sup>1</sup> PAN2/2010 revoked PAN74 Affordable Housing (March 2005).

**2.1.2 Local Housing Strategy Guidance (2014)** - The Local Housing Strategy (LHS) is the local authority's sole strategic document for housing in its area, covering a five-year period. It sets out the strategy, priorities and plans for the delivery of housing across all tenures, to meet identified need. LHS Guidance (2014) supports local authorities in the preparation of their LHS. In accordance with Guidance, the LHS must consider the scale and distribution of the affordable housing requirement for a specified area. Where a shortage of affordable housing is identified, the LHS should clearly set out the role that affordable housing policies are anticipated to play in addressing this.

**2.1.3 Housing Need and Demand Assessment (HNDA) Guidance (2014)** - The Housing (Scotland) Act 2001 states that the LHS must be supported by an assessment of housing need and demand, with the HNDA forming a key part of the evidence base for the LHS and setting Housing Supply Targets. The HNDA also informs Development Plans, with local authorities (as both the statutory housing and planning authority) responsible for assessing housing requirements, ensuring a generous supply of housing land and enabling the delivery of both market and affordable housing.

HNDA Guidance provides a step-by-step approach to assessing need and demand across all tenures. Local authorities are encouraged to undertake this assessment at housing market area level and provide a clear understanding of the operation of the housing system as a whole. The HNDA should provide evidence to inform policies in relation to the level of affordable housing required.

**2.1.4 Joint Housing Delivery Plan for Scotland (2015)** - Halfway through the decade it was considered appropriate to reaffirm Scotland's shared public and private commitment to the vision set out in Homes Fit for the 21<sup>st</sup> Century. A Housing Policy Advisory Group was established and a Joint Housing Delivery Plan for Scotland published to ensure delivery of the strategic objectives set out in Homes Fit for the 21<sup>st</sup> Century and other Scottish Government Strategies with a bearing on housing.

**2.1.5 More Homes Scotland (2016)** – Following publication of the Joint Delivery Plan, the Scottish Government set a target of building 50,000 affordable homes by 2020 (35,000 of which are to be social rent) in a £3 billion investment programme, to increase the supply of affordable housing nationally by 67%. It is anticipated this housing investment will help to sustain 20,000 jobs, bring over £10 billion into the economy and be key to tackling poverty.

The More Homes Scotland approach is focussed on investing more public and private money in housing, getting land ready for housing and making sure we plan for new housing effectively. The approach includes although is not limited to:

- Increasing subsidy levels for affordable housing
- Establishing a Rural Housing Fund
- Providing support for City Deals
- Inviting proposals for the expansion of mid-market rent housing
- Market testing a private rented sector rental income guarantee scheme
- Investing £160 million to support affordable home ownership

## **2.2 Local Strategic and Policy Context**

**East Lothian Local Housing Strategy 2018-23** - In accordance with LHS Guidance, the East Lothian LHS 2018-23 provides the strategic direction to tackle housing need and demand and inform future investment in housing across the county.

The East Lothian LHS 2018 covers the period 2018-23. It contains six priority outcomes including *'Priority Outcome 2: The supply of housing is increased and access to housing improved across all tenures'* The implementation of SPG on Affordable Housing contributes towards meeting this outcome.

**2.2.1 East Lothian Strategic Plan for Health and Social Care Integration (2016)** - The LDP, LHS and East Lothian Strategic Plan support the principle of specialist housing provision and provision for specific housing needs. There is also a commitment across strategies and plans to achieving National Health and Wellbeing Outcomes, in particular Outcome 2 *'People, including those with disabilities or long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community'*.

**2.2.2 East Lothian Strategic Housing Investment Plan 2019/20–2023/24** - East Lothian Council is required to prepare a Strategic Housing Investment Plan (SHIP) annually, to cover a five-year period. The most recent SHIP sets out East Lothian's strategic housing investment priorities for the period. It contributes towards achieving the outcomes set out in the LHS and demonstrates how investment in affordable housing will be targeted to meet these objectives. It is also the key document for identifying the strategic housing projects which will assist the successful delivery of the Scottish Government's target of 50,000 affordable homes by 2020/21.

### 3 The Need for Affordable Housing

This Section of the SPG sets out the identified need for affordable housing and corresponding key issues.

#### 3.1 Assessing the Need for Affordable Housing

Planning Circular 1/2013<sup>2</sup> sets out Scottish Ministers' determination of the boundaries of the four Strategic Development Plan (SDP) areas across Scotland:

- 4 Glasgow and Clyde Valley (Clydeplan);
- 5 Aberdeen City and Shire;
- 6 Dundee, Perth, Angus and North Fife (TAYplan) and
- 7 Edinburgh and South East Scotland (SESplan).

East Lothian is situated within the Edinburgh and South East Scotland Strategic Development Plan (SESplan) area, comprising of the City of Edinburgh; East Lothian; Fife<sup>3</sup>; Midlothian; Scottish Borders and West Lothian Council administrative areas. Given this, Housing Need and Demand Assessments (HNDAs) prepared for the SESplan area, cover the administrative area of East Lothian. Three housing market areas are identified across the county, with the HNDA carried out at an East Lothian wide and housing market area level. The three housing market areas comprise Musselburgh, Haddington, Tranent etc; East Lothian Coastal Settlements and Dunbar and its Hinterland.

SESplan HNDA was signed off as robust and credible by the Scottish Government in June 2011. It provides an estimate of total housing need by calculating current housing need and estimating future housing demand. Estimated supply from stock turnover is then deducted to provide net housing need. Table 3.1 shows an estimated 232 households are projected to require affordable housing in East Lothian per annum, net of existing turnover.

<b>Table 3.1: SESplan HNDA: East Lothian Total Household Need for Affordable Housing (Net of Turnover) – Average Applying Over Next 10 Years (per annum)</b>			
	<b>East Lothian</b>	<b>Lothian</b>	<b>SESplan</b>
<b>Housing Need</b>			
<b>Existing Need</b>	138	1,306	1,908
<b>Future Need</b>	408	4,074	6,116
<b>Total Housing Need</b>	547	5,380	8,025
<b>Housing Supply</b>			
<b>Supply from Turnover</b>	314	3,009	5,265
<b>Net Housing Need</b>			
<b>Housing Need – Net of Turnover</b>	232	2,383	2,807

Source: SESplan HNDA Final Report, 2011

<sup>2</sup> Planning Circular 1/2013 represents a change to the previous TAYplan boundary and revokes Planning Circular 3/2008

<sup>3</sup> Fife comprises of the southern half of Fife for SESplan purposes, with the northern half falling into the TAYplan area.

SESplan HNDA also provides an estimate of demand for market housing, with demand for new houses net of turnover for East Lothian at 11,770 from 2009-32 as shown in Table 3.2. Table 3.2 sets out the % split in relation to need and demand for market and affordable housing. In the short term up to 2019, it demonstrates that affordable housing need is more acute, with a 41% requirement.

**Table 3.2: SESplan HNDA – East Lothian Demand for New Houses Net of Turnover, 2009-32 (per annum) and % Affordable Housing Requirement**

	Yrs 1-5 (2009-14)		Yrs 6-10 (2015-19)		Yrs 11-15 (2020-24)		Total Housing Demand 2009-24	Yrs 16-20 (2025-29)		Total Housing Demand 2009-32	
	No.	%	No.	%	No.	%	No.	No.	%	No.	%
<b>Affordable</b>	197	41	232	41	143	26	2,860	122	25	3,844	33
<b>Market</b>	282	59	331	59	405	74	5,090	360	75	7,926	67
<b>TOTAL</b>	479		563		548		7,950	482		11,770	

Source: SESplan Housing Technical Note, 2011

SPP suggests the quota of affordable homes that can be expected from a market housing site should normally be no more than 25% of units. In East Lothian, the primary requirement in relation to affordable housing is for social rented housing, however it is recognised that other affordable housing models are required to meet need and demand.

The LDP requires to ensure sufficient housing land is available to deliver 6,250 homes in the period 2009-19 and a further 3,800 homes over the period 2019-24. In total, sufficient housing land is needed in order to deliver 10,050 homes in the period 2009-24.

The most recent HNDA (SESplan HNDA2) evidences a need for increased housing per annum (including affordable housing) until the year 2030. Housing development in East Lothian is therefore likely to continue to grow at a fast pace, aiming to make an appropriate contribution to the Scottish Government target of 50,000 new affordable homes by the end of this parliament. It is therefore critical that East Lothian Council maximises its opportunities to increase the supply of affordable housing through the LDP.

### 3.2 Key Issues Identified in SESplan HNDA

SESplan HNDA identifies a range of issues in relation to the need and demand for housing across the county, informing an evidence base for the LHS 2012-17. These issues are summarised as follows:

- Circa 4,000 households on the Council’s housing list
- Identified need for 10,050 houses in East Lothian between 2009 and 2024
- Requirement for 6,250 units of housing between 2009 and 2019
- Further requirement for 3,800 units of housing to be delivered between 2019-2024
- Lack of availability of land to deliver affordable housing is a major problem
- 33% affordable housing needed within the overall housing supply figure
- High demand for all types and sizes of housing in East Lothian

- A combination of a growing population; households becoming smaller and an ageing population is likely to mean that more affordable housing is required, particularly smaller units
- An ageing population is likely to mean more affordable housing is needed for older people and people with a physical disability
- Changes to homelessness legislation will put increased pressure on affordable housing and mean more new build affordable housing is needed
- High house prices and challenges around borrowing from lenders create difficulties in relation to purchasing on the open market, particularly for first time buyers
- An increased range of tenures are available that should be supported
- The economic climate has caused the house building industry to slow down, affecting the amount of affordable housing which can be built
- The private rented sector can be difficult for people to access and afford
- Welfare Reform is causing difficulty for some household groups with regard to the affordability of housing costs and for landlords to be able to invest in new housing
- Existing housing stock is highly pressured and must be used effectively

### **3.3 Assessing Local Need for Affordable Housing**

While SESplan HNDA provides information at a county wide and housing market area level, more detailed evidence is available within the LHS 2018-23

[https://www.eastlothian.gov.uk/downloads/file/27328/east\\_lothian\\_local\\_housing\\_strategy\\_2018-23](https://www.eastlothian.gov.uk/downloads/file/27328/east_lothian_local_housing_strategy_2018-23). East Lothian Council's Strategic Investment Team will prepare a Local Investment Framework by June 2019 to improve this intelligence and create a tenure mix for specific areas. Until this is in place, the Strategic Investment Team will assess each site on its own merits.

The Strategic Housing Investment Plan (SHIP) 2018/19-2023/24 currently provides further detail on those sites coming forward over the next 5 years. This SHIP is required to be updated annually.

#### **3.3.1 Assessing the Need for Specialist Provision**

Demographic trends indicate that the population of older people is increasing and will continue to increase in the future, as older people are living longer. The number of people of pensionable age is projected to increase in all council areas across Scotland, with the second largest increase projected in East Lothian at 42% from 2014-39<sup>4</sup>.

By 2039, seven local authority areas across Scotland are projected to have half of their households headed by someone aged 60+. In East Lothian, 44% of households are projected to be headed by a person aged 60+ by 2039. Table 3.3 sets out household projections for older households headed by a person aged 75 and over in East Lothian.

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<sup>4</sup> NRS 2014-based population projections

<b>Table 3.3: Household Projections for Households Headed by a Person Aged 75+ in East Lothian, 2014-39</b>					
	2014	2039	Average Annual Change	Overall Change 2014-39	
				No.	%
<b>East Lothian</b>	6,286	12,169	235	5,883	94
<b>Scotland</b>	311,183	556,107	9,797	244,924	79

Source: NRS 2014-based Household Projections

A significant proportion of older people will live alone or in smaller households, increasing the need for smaller sized homes. There are currently more single adult households aged 65+ than two person households and the projected growth in single person households is substantial. However, with projected increases of 29.0% for older single person households and 39.6% for older two-person households from 2012 to 2026, this gap is likely to begin to close across the county. This will mean there are likely to be increasing levels and substantive numbers of couple households wishing to remain together for longer in mainstream housing. In turn, this may impact upon care and support requirements.

A high proportion of older people are likely to have dementia and / or complex needs, despite increasing healthy life expectancy, which will have major implications for housing support and specialist housing provision. The projected changes to the population and household trends point to a shift towards a higher level of dependence within our population.

The majority of older people in East Lothian currently live in private mainstream housing (67%). However a potentially substantial proportion of older people are unlikely to have sufficient equity available in their existing homes, to have the capacity to fulfil their housing and care needs in the private market.

In addition to an ageing population, the need for specialist provision is and will continue to become increasingly important for people with a physical disability; people with a learning disability and people with a complex mental health condition. This is attributable to a growing population generally; an increase in complex needs and dementia; the policy objective of the Scottish Government to continue to shift the balance of care away from institutional settings and increasing public expectations of service provision.

The HNDA focusses on the need and demand for affordable and market housing, with the most recent HNDA (SESplan HNDA2) breaking this down into need and demand for privately owned housing; private rented housing; intermediate tenures i.e. mid-market rent, low cost home ownership and social housing. However, East Lothian Council considers the evidence in relation to housing need for specialist provision for particular needs groups to be limited in comparison. To enhance HNDAs, a Housing Need and Demand Assessment for Specialist Provision for Particular Needs Groups in East Lothian has been prepared. This analyses the scale, nature and location of need and demand for particular needs groups across the county. This shared evidence base is critical to



informing strategic planning for the delivery of future specialist housing provision and supports the wider integration of Housing and Health and Social Care.

It is clear that addressing the housing needs of increasing numbers of older people and other vulnerable groups will require a major rethink and redesign of services and building new, affordable and sustainable housing is a key priority. A variety of house types and sizes will be required, to promote mobility in the housing system and enable downsizing where appropriate. This may result in some lower densities on some affordable housing sites. Accessible and adaptable smaller sized homes and developing appropriate specialist housing will be critical.

All developments which propose to develop housing defined under use class 9 (whether a conversion, amenity, sheltered or retirement) will fall under the affordable housing policy and the 25% affordable housing quota.

### **3.4 Town Centre Provision**

Town centres are an important part of the settlement strategy, providing a focus for a wide mix of land uses including housing. East Lothian Council has signed up to the *'Town Centre First Principle'*<sup>5</sup>, which supports continued investment in town centres, to help communities to thrive. The East Lothian LHS considers the opportunities that exist for supporting town centre living and the scope that town centres may provide to contribute to meeting local housing need and demand. East Lothian Council's Strategic Housing Investment Team will consider funding initiatives to help resource affordable housing and complement wider regeneration activity. Housing and tenure mix is key to the success of sustainable and vibrant town centres, with affordable units dispersed evenly throughout.

### **3.5 Rural Housing Provision**

Rural parts of the county although very different in character, have a distinct set of issues in common in relation to housing. Demand for housing is high across all tenures in East Lothian, but there is particularly acute pressure in rural areas, due to a shortage of affordable housing. In part this is due to a loss of properties through the Right to Buy, which impacted significantly upon rural areas. Demand for housing in rural areas keeps house prices high, with evidence suggesting that house prices in rural areas are higher than in the main settlements. There is also national evidence that households living in rural areas typically need to spend 10-20% more on everyday requirements than those in urban areas.

New build housing development in the countryside will be supported in the LDP in circumstances where there is a justified operational requirement and no appropriate existing building suitable for conversion, identified as being available in the locality.

In the case of small scale housing proposals in the countryside, the LDP will support new affordable housing if evidence can be provided of need and the affordable housing provider can ensure that the dwellings will remain affordable in the longer term.

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<sup>5</sup> <http://www.gov.scot/Topics/Built-Environment/regeneration/town-centres/TheTownCentreFirstPrinciple>

## **4 Affordable Housing Contribution**

In accordance with SPP, this Section of the SPG sets out East Lothian Council's approach to how the affordable housing contribution is agreed and secured.

Based on evidence from SESplan HNDA and the LHS, a specific policy intervention in the planning process in the form of an affordable housing policy is identified as being required, to help increase the supply of affordable housing across the county.

SESplan HNDA evidences a 33% requirement for affordable housing during the period 2009-32, with a more acute requirement of 41% during the earlier period up to 2019. However, SPP suggests the quota of affordable homes that can be expected from a market housing site should normally be no more than 25% of units.

### **4.1 Site Thresholds**

#### ***Policy HOU3: Affordable housing quota***

Development proposals that bring forward five or more dwellings must make provision for affordable housing as part of the proposal. The required proportion of affordable housing to be provided will be 25% of the total number of dwellings proposed for the site.

This includes all housing developments which propose to develop housing defined under use class 9, whether a conversion, student accommodation, amenity, sheltered or retirement housing.

To allow for the transition between Plans, affordable housing quotas for previously allocated sites will remain as set by the previous Local Plan. The affordable housing quota of the previous Plan was 25%, other than at Blindwells and at Letham Mains, Haddington where 30% and 17% quotas were set respectively. Both exceptions remain in the current LDP. Other than these exceptions, an Affordable Housing Contribution of 25% of the total number of units will be required. Where the 25% is not a whole number, it will be rounded off to the nearest whole number.

The process of securing and delivering the 25% Affordable Housing requires early engagement between the Council and Developer to discuss and set out the key policy requirements.

### **4.2 Affordable Housing Mix and Tenure**

East Lothian Council will seek to promote sustainable and mixed communities, developing a range of affordable housing to match local needs. East Lothian Council is currently preparing a Local Investment Framework, to build on existing intelligence. In the future this will indicate the requirement for the delivery of specific tenures and client groups within each of the sub-housing market areas. Until such time, the Council will require a tenure mix which delivers 80% social rent with the remaining 20% delivering intermediate tenures i.e. mid-market rent or low cost home ownership (refer to Chapter 6 for further detail).

It is important that particular demographic / geographical requirements are considered within the context of available subsidy. This can only be achieved through close collaborative working with developers, RSLs and other partners as agreed by the Council.

Developers must engage with East Lothian Council, prior to the submission of a planning application, to discuss and agree the affordable housing requirement pertaining to individual sites. This will include the area and location of land; number of units/ density; tenure; house types; design and where practicable, the method of delivery.

The overarching priority of East Lothian Council is to secure onsite delivery of affordable housing units preferably for social rent, through the transfer of serviced land or through the delivery of units. The Council also acknowledges that there is a need to increase choice for those in need of affordable housing and deliver other affordable tenures. As a guide, the Council would like to see a minimum of 80% of the affordable units delivered as social rent with the remaining percentage delivered through those other intermediate tenures.

In the event that East Lothian Council accepts that onsite delivery for social rent is not the priority or is undeliverable, consideration will be given to the delivery of alternative tenures i.e. mid-market rent or low cost home ownership, which are outlined in Section Six of the SPG.

#### **4.3 Delivery Partners**

In addition to delivering its own programme, East Lothian Council works collaboratively with the Scottish Government and a number of Registered Social Landlords operating in the area. It is therefore important that agreement on the preferred affordable housing provider is reached with the Council to ensure support from the Scottish Government in its allocation of subsidy.

The SHIP provides details of the Affordable Housing Provider for each site identified over the next 5 years and a guide as to the tenure mix required on the sites identified. This is updated annually and the current SHIP can be found on the Council's website [https://www.eastlothian.gov.uk/info/210550/housing/12399/strategic\\_housing\\_investment\\_plan\\_ship/1](https://www.eastlothian.gov.uk/info/210550/housing/12399/strategic_housing_investment_plan_ship/1)

#### **4.4 Application engagement**

The Council encourages and seeks to support all pre-application discussions on affordable housing. The Council advises that applicants engage as early as possible to discuss the key policy requirements. In all circumstances, the approach to delivering affordable housing must be agreed with the Council. There are various stages to agree, secure and deliver and affordable housing provision for a Planning Permission in Principle or a Planning Permission, this is illustrated below.



#### 4.4 Securing the Affordable Housing provision – Section 75

**Any Affordable Housing contribution is secured by a planning obligation (by virtue of Section 75 of the Town and Country Planning (Scotland) Act 1997). Section 75 permits a planning authority and any person, by agreement ( in respect of land in the district of the planning authority) to enter into a planning obligation** for the purpose of restricting or regulating the development or use of the land, either permanently or for a period as detailed in an agreement. The Section 75 agreement for both the planning permission in principle and the planning permission will contain:

- 1) The cascade approach as detailed below being :-
  - 1.1 On site provision of the transfer of serviced land or the delivery of units
  - 1.2 Off site provision
  - 1.3 Payment of a commuted sum
  
- 2)The delivery package to be agreed between the applicant and the Affordable Housing provider prior to the commencement of development of (1) any phase of development in a planning permission in principle which has an affordable housing provision or(2) development pursuant to the grant of a planning permission.
  
- 3)The triggers for the transfer of the affordable housing provision ( either transfer of serviced land or the delivery of units) to the Affordable Housing Provider. For planning permissions in principle, this is linked to phases. For Planning Permissions, this is linked to the phased completion of market units.

The Section 75 agreement will be concluded prior to the issuing of any associated planning consent. It is East Lothian Council's requirement that a Section 75 should be concluded within six months of any minded to grant decision from the Council on a planning application, or permission could then be refused. Any delay in these timescales may impact on the timescales or way in which a planning application will be determined

#### **Delivery Package**

For Planning Permissions in Principle and Planning Permissions a delivery package must be agreed between the applicant and the Council prior to the commencement of development of (1) any phase of development in a planning permission in principle which has an affordable housing provision and (2) development pursuant to the grant of a planning permission.

The purpose of the delivery package is to agree the mechanism of how the affordable units will be delivered. The delivery will be by an affordable housing provider such as the Council, a Registered Social Landlord or another type of affordable housing provider agreed with the Council. The Council has to agree to provide the support necessary to secure subsidy from the Scottish Government. Other aspects of the delivery package include the client group, tenure , density, phasing , the specification and the construct of the actual delivery i.e. serviced land, completed units either through turnkey, D&B or property transaction with staged payments.

The information is required to ensure that the affordable housing provision is in an appropriate layout and form of development, which meets the need for that area.

The delivery package will be agreed in terms of the schedule (which may be subject to change) annexed to this Supplementary Planning Guidance

#### **4.6 Cascade**

##### **On site provision by transferring serviced land, delivering units**

###### **Transfer of serviced land:**

The Council and Developer may decide that the transfer of an agreed area of serviced area to an affordable housing provider agreed by the Council is the preferred delivery option.

Serviced land is defined as 'land that is certified as ready for development and which benefits from the availability of utility service connections to the boundary, including surface water drainage; water mains; electricity; gas; telecoms including digital connectivity; mains sewer with an access point and route of vehicular and pedestrian access. Special care must be taken to ensure that the different elements of the development are successfully integrated and that the areas earmarked for the affordable housing element are not subject to any disproportionate or unreasonable development constraints.

Where serviced land is being transferred to East Lothian Council or a Registered Social Landlord, it will be valued at an appropriate end-use value determined by the District Valuer, in accordance with the current Royal Institution of Chartered Surveyors (RICS) Valuation Professional Standards, or at a value agreed by all parties involved in line with RICS standards. Where the land is being transferred to the Council, the valuation report will be instructed jointly with the expense being shared between the council and the developer.

Developers should take the requirement for affordable housing and any other Section 75 contribution into account in their own land and property negotiations with landowners to ensure the reduced land value is reflected in the purchase price. For the purposes of land negotiations it should be noted that the affordable housing valuation is nominal and very often results in a NIL value.

PAN 2/2010 states '*where non-market housing is to be provided as part of the development or part of the site is to be purchased by the Council or a Registered Social Landlord at a value lower than market housing, this will affect the price which can be paid for the land and will require to be negotiated with the site owner.*'

##### **Delivery of Units**

The Developer and the Affordable Housing Provider may wish to explore the delivery of units as an integral part of a mixed residential development with the landowner, rather than the transfer of serviced land. This can often provide a positive outcome in terms of a mixed residential development resulting in a tenure blind development. East Lothian Council's Strategic Investment & Regeneration Team will be happy to explore options with developers who wish to build and transfer affordable homes.

Timing, specification and design (as set out in chapter 5), costs and values would need to satisfy best value in these circumstances.

Please note that the same principles will apply i.e. The Council must agree the location and area of land to deliver the required affordable housing mix. The Council is also responsible for agreeing the Affordable housing provider and tenure delivery on site.

**The developer and the Affordable Housing Provider will agree the appropriate mechanism for delivery of the units i.e.**

• **Building Contract -**

It will be for the Developer and Affordable Housing provider to decide what type of contract should be used for a specific development to be constructed and to set forth the legally-binding terms and conditions in a contractual agreement.

• **Property Transaction with Staged Payments**

The Council may in some circumstances consider entering into a contract with a developer/affordable housing provider which facilitates payments for an affordable unit at an agreed stages of construction. The contract would also secure a final balancing payment in exchange for the transfer of an affordable housing unit. However this option will be subject to the developer being able to demonstrate sufficient security to the Council including ( but not limited to) granting a security over the affordable housing land, providing all necessary and relevant warranties for the construction and delivering the units in small tranches.

• **Turnkey**

A turnkey project is a type of project that is constructed by the developer and sold to the Affordable Housing provider as a completed product with a unit price to be agreed.

**Off-site Provision**

The provision of an off-site contribution is only deemed appropriate in circumstances where it is not practicable to deliver on-site, for example:

- Site-specific constraints,
- High development costs,
- The alternative site may be in a better location and deliver a better outcome for the affordable housing,
- The timeframe for the development of an off-site alternative could benefit East Lothian Council or a Registered Social Landlord.

Any off-site contribution must be agreed with the Council in the first instance, have planning consent and be in the form of fully serviced land and / or completed units, as outlined in accordance with preferences one and two.

The site area and number of affordable units provided off-site must equate to that which would have been provided on-site. If off-site provision is deemed acceptable, the units must be over and above any affordable units already required by this site.

### **Commuted Sums**

A commuted sum will only be considered as a last resort, where neither on-site nor off-site provision is deemed to be practicable by the Council .

Commuted sums will be paid to East Lothian Council and reinvested in the provision of affordable housing in East Lothian. The funds will be used to acquire sites, fund build costs and / or acquire units within the same market area.

A commuted sum is calculated as ‘the value equivalent to the cost of providing the proportion of serviced land required by East Lothian Council’s Affordable Housing Policy’.

The valuations will be updated every two years or earlier if there has been a material change in the market.

The financial contribution for each East Lothian market area has been assessed in accordance with the District Valuer’s methodology and are set out in Appendix Five.

Please note that these sums only apply to the six main towns of Musselburgh, Prestonpans, Tranent, Haddington, North Berwick and Dunbar. Any development out with the main towns e.g. Longniddry, Aberlady, Dirlton etc. will be valued independently.

### **4.7 Subdivision of sites**

Where East Lothian Council considers that developers have submitted multiple planning applications for housing on the same or adjacent sites in order to reduce the provision of affordable housing required in terms of the Affordable Housing Policy, such applications will be processed as a single application.

### **4.8 Rural Housing Sites**

Where an opportunity is identified for development in a rural area which has no new build provision and is not well served by public transport and local amenities, it can often be unsuitable for social rented housing. The Council will consider alternative affordable housing tenures on such developments, providing the developer ensures that the dwellings will remain affordable in the longer term.

The Local Development Plan is supportive of new build housing development in the countryside, where there are no existing buildings suitable for conversion. In the case of small scale housing proposals, the Proposed Local Development Plan will support affordable housing if need is evidenced and the affordable housing provider ensures that dwellings will remain affordable in the longer term.

### **4.9 Viability Assessments**

East Lothian Council accepts that anticipated provision of affordable housing can affect land values for residential development. However, developers are expected to take account of planning policies and this SPG, including its effect on land values, prior to entering into land and property negotiations.



It is acknowledged there are often other contributions and unknown costs at the time of purchase, which together could make the development unviable. Where a scheme is considered to be unviable, developers will be required to demonstrate this by submitting a financial viability assessment on an 'open book' basis. In some cases, East Lothian Council's Strategic Investment & Regeneration Team may instruct an independent appraisal and only in exceptional circumstances will exemption be given.

The following costs are not typically considered to be abnormal:

- Site purchase / acquisition
- Site clearance works including levelling
- Removal of known contamination / remediation
- Provision of access
- Drainage
- Grouting

## **5 Affordable Housing Design Requirements**

**5.1** This section of the SPG sets out the specification and design requirements for the affordable housing.

PAN2/2010 advises that affordable housing ought to be, as far as possible, indistinguishable from the general mix of other houses on a site in terms of style and layout, use of materials, architectural quality and detail. Both 'pepper potting' of individual affordable houses throughout a development and large groupings of houses of the same tenure are best avoided. As a guide, the Council would normally expect areas between 30 and 60 units, however the Council will apply this guide flexibly in some situations depending on specific circumstances. Concentrating affordable housing for rent in small groups will ease the subsequent management of the homes by the Council or an RSL and contribute towards providing mixed balanced and sustainable communities.

The provision of affordable housing is about more than just bricks and mortar. It is about supporting place-making to ensure new housebuilding fosters good community relations and promotes positive health impacts. It is about creating vibrant, balanced communities which incentivise diversification in housing. It is also about the quality of what is provided, irrespective of tenure or type. Good design can contribute to health and wellbeing and improved quality of life and new housing should be innovative in terms of design, layout, open space provision, construction and energy efficiency. National planning policy set out in *Designing Streets* and SPP, aims to achieve high quality, well-designed homes in all new housing developments, including affordable housing and attention should be on both individual homes and the layout and design of the wider community.

The demographics of East Lothian are changing and with a growing ageing population there is a corresponding increase in demand for affordable housing suitable for older people and the specific design or management requirements this necessitates. To enable the delivery of quality housing and related services for a growing number of households across the county it is important to explore opportunities for future proofing housing designs.

### **5.2 Assessment of Sites**

As set out in the previous chapter, the approach to delivering affordable housing must be agreed with East Lothian Council on all matters related to delivery, including the location, number, type, tenure, density and design of affordable housing as well as the affordable housing provider and delivery method. The areas for affordable housing must be identified on the masterplan for the development and be capable of accommodating the required type, mix and number of affordable units to be built on them.

The availability of funds to support the delivery of affordable housing will be set out in the Council's Strategic Housing and Investment Plan. The Scottish Government confirm the Council's definite resource allocation on an annual basis with minimum resource allocations publicised for future years to assist with longer term programming.

The delivery of the affordable units is complex and East Lothian Council recognises that the availability of public subsidy is important in determining which form of affordable tenure may be provided i.e. subsidy is critical in helping to deliver social housing therefore The rate of phasing and timing for affordable housing is therefore critical to allow for programming of funding and resource planning. Understanding the timing and phasing of delivery can often make it difficult to confirm the tenure as developments may not feature within the current programme and budget.

***Developers should note that where subsidy is not available, East Lothian Council's requirement to deliver affordable housing remains.***

### **5.3 Quality and Design**

East Lothian Council require all affordable homes to be of a good design and quality and fit for purpose. Affordable housing should be innovative in terms of design, layout, open space provision, construction and energy efficiency. The following are key considerations in the design of affordable housing on any scheme.

#### **5.3.1 Integration**

When designing affordable housing, it is important to ensure integration to blend the affordable housing aspects within the overall development rather than isolating these areas to ensure the development is tenure neutral. The aim must be to prepare a design that delivers a mixed community with a sense of place and identity.

Smaller groups of affordable housing should be distributed throughout a large site, as opposed to being concentrated in one area. Each affordable plot should be clearly separate from one another and located such that they can be developed consistent with any proposed phasing plan. The creation of large single tenure areas will be unacceptable. Higher densities for the affordable housing in comparison to the market housing should also not be assumed to be acceptable.

#### **5.3.2 Layout:**

- Must be located where possible, close to public transport, paths and active travel links and community facilities and amenities
- Located to maximise solar gain
- Should contribute to opportunities for open space and green network enhancement wherever possible
- Must be of an area sufficient to accommodate the required number of units at a suitable density to provide an appropriate housing mix to meet the assessed local housing need.

### 5.3.3 Housing Types

Achieving the correct type and size of housing, including special needs is key and an appropriate mix of the following house types will be expected:

1bed/2apt/2person flats

2bed/3apt/3person and 4person flats

***Cottage style flats with main door access are preferable to flats with common stairs.***

2bed/3apt and 4apt/4person houses

3bed/4apt and 5apt / 5 person houses

4bed/5apt and 6apt / 6 person houses

2bed/3apt/3 and 4person wheelchair bungalow or ground floor flat

3bed / 4apt / 4 and 5 person wheelchair bungalows or housetypes with ground floor bedrooms

### 5.3.4 Specification

All matters of design must be discussed and agreed with the affordable housing provider for whom the properties are being delivered.

Room sizes and layouts must meet the requirements of the affordable housing provider to ensure they reflect individual allocation policies e.g. minimum space standards for bedroom sizes, build in storage requirements.

As a minimum, affordable homes must comply both internally and externally with the relevant Essential design criteria from Housing for Varying Needs (HfVN) to ensure they address the requirements of the Scottish Government and Local Authority.

Developments should aim to achieve Secure by Design accreditation.

Depending on the client group, a percentage of affordable dwelling will be required to comply both internally and externally with HfVN part 2: Housing with Integral Support.

### 5.3.5 Meeting the needs of Older People

Housing provision for older persons will be mainly directed at specific design solutions through mainstream affordable housing such as the provision of bungalows, flats with lifts and sheltered housing that can meet the needs of individuals outside of institutional care. Design aspects of proposals for this client group should deliver housing that incorporates flexible designs which enable adaptation for future needs and uses in terms of internal and external spaces. Incorporating features such as dementia friendly design and compliance with the requirements of HfVN applying to dwellings specifically for older and ambulant disabled people are also important.

Specific accommodation for the elderly will be expected to be provided in sustainable locations where there is reasonable access to facilities such as public transport, health care, shopping and other community facilities.

Use class 8 under planning legislation relates to nursing and care homes; and

Use class 9 relates to dwelling houses in general.

Use class 8 will not count towards affordable housing, however use class 9 will. This will include those hybrid proposals such as extra care housing schemes that accommodate individual dwellings that are self-contained (e.g. sheltered). Those instances that propose a mix of use class 8 and 9 the provisions for contributions of affordable housing will be applied on all use class 9 proposals.

### **5.3.6 External features**

External design is also important with an expectation of a minimum area of usable garden space and areas for clothes drying wherever these are deliverable.

Incorporating features such as dementia friendly design and other features suitable for particular needs client groups.

Car parking provision for the affordable housing dwellings are usually required at 100% of the housing units.

### **5.3.7 Energy Efficiency**

Scotland's Sustainable Housing Strategy sets out a vision for the new build market and developers to maximise the potential of innovative design and construction techniques to deliver more, greener, warmer, higher quality, affordable homes as part of sustainable neighbourhoods, creating export and other economic opportunities which will support low carbon economies and prevent fuel poverty.

It is therefore important that sustainable development is considered and integrated into plans and house types including the application of low carbon energy.

The Scottish Government supports Greener Standards in house building which also increases the energy efficiency of properties. Extra funding is available through the Government's Affordable Housing Supply Programme (AHSP) for homes meeting the 'silver' standard for emissions and energy use within section 7 of the 2011 building regulations in respect of energy for space heating.

### **5.3.8 Factoring**

Developments often include design features which increase the management and maintenance costs of a development. Wherever possible affordable developments should not have a factoring charge and where they do this should be kept to a minimum e.g. it may be possible for the affordable housing provider to take on the maintenance of areas within the affordable housing location.

## 6 Affordable Housing Tenures

This Section of the SPG sets out the range of tenures recognised by East Lothian Council as comprising 'affordable housing', in accordance with SPP and definitions set out in PAN2/2010.

**6.1 Social Rent:** Housing provided at an affordable rent and managed by a local authority, Registered Social Landlord or other not for profit social housing provider, regulated by the Scottish Housing Regulator. To qualify for Scottish Government subsidy, the design specifications require to meet 'housing for varying needs' criteria (see 5.3.5). Developments are not guaranteed to receive public subsidy, therefore early initial discussions with East Lothian Council's Strategic Investment Team are critical to ensure inclusion within the SHIP.

**6.2 Mid-Market / Intermediate Tenure Rent:** Accommodation available at rents below market rent levels in a defined local area. Rents are typically lower than Local Housing Allowance levels. This tenure may be provided by a Registered Social Landlord, developer or alternative organisation agreed by East Lothian Council's Strategic Investment Team. Rents and eligibility criteria will be set in agreement with East Lothian Council and the provider.

**6.3 Subsidised Low Cost Home Ownership for Sale (shared equity):** A publicly funded subsidised unit, sold at a level identified as being affordable within a local context. The householder pays for the majority share in the property with a Registered Social Landlord, local authority or Scottish Government holding the remaining share under a shared equity agreement. No rent or occupancy payment is taken and the householder owns the property outright. The householder may be required to buy out the equity balance at an agreed point in the future.

**6.4 Low Cost Home Ownership (Shared Ownership):** The householder purchases part of the dwelling and pays an occupancy payment to a Registered Social Landlord in respect of the amount outstanding. The householder has the ability to buy the dwelling in its entirety or increase the level of ownership of the dwelling in the future.

### 6.5 Unsubsidised Low Cost Home Ownership

**6.5.1 (Discounted Sale Model):** A standard dwelling sold by a developer in partnership with East Lothian Council, to an agreed identified client group, at a specified price below market value. The methodology for calculating the discounted sale assumes a multiplier of three times the median income level for each market area. The Tables set out at Appendix 2 of this document show income details for each housing market area<sup>6</sup>.

A Deed of Conditions is attached to the missives, in order to maintain the dwelling as an affordable unit to subsequent purchasers. The conditions are set out and agreed between East Lothian Council and the developer within a Section 75 agreement.

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<sup>6</sup> These figures will require to be reviewed annually

### **6.5.2 Unsubsidised Low Cost Home Ownership**

**(Golden Share):** A model similar to Discounted Sale, with the exception of a difference in criteria in relation to pricing and eligibility. Typically the asking price is set at 80% of the market value in perpetuity, with the market value being set by an independent or District Valuer to the satisfaction of East Lothian Council. Eligible purchasers must be able to evidence a local connection and an ability to finance the purchase of the full market value of the property.

### **6.5.3 Unsubsidised Low Cost Home Ownership**

**(Unsubsidised Shared Equity):** The householder purchases part of the dwelling, typically 60- 80% of the value, with the remainder of the stake held by the developer.

**6.6 Self Build:** Self-build refers to housing built by individuals or a group of individuals for their own use. This will involve developers selling serviced plots for self build to the intended owner occupier at a discounted price. East Lothian Council do not have any current guidance on self build, however The Scottish Government are currently working with relevant organisations to review best practice and current self-build procedures and guidance. The Council's Strategic Investment and Regeneration team will consider how to effectively support self-build with a new £4million self-build loan fund anticipated to become available during 2018 across Scotland.

***Note – Not all of the above tenure options will deliver affordable housing in perpetuity. All tenure proposals must be agreed and supported by East Lothian Council's Strategic Investment Team***

## 7 Partnership Working

Developers are expected to work in partnership with East Lothian Council and Registered Social Landlords, to ensure affordable housing needs are met i.e. tenure, house type and size. Collaborative working is also required in relation to masterplanning.

This Section of the SPG sets out East Lothian Council's approach to partnership working, providing clarity on the roles and responsibilities of the various Council Teams, developers and Registered Social Landlords.

- **East Lothian Council's Strategic Investment & Regeneration Team**
  - Provide advice to developers on the preference for delivery i.e. onsite provision, offsite provision or a commuted sum
  - Provide information on the affordable housing requirement for individual areas
  - Agree the best locations and plot sizes for the affordable units
  - Provide a housing mix and house types based on need
  - Agree the affordable housing provider
  
- **East Lothian Council's Planning Team**
  - Attend pre-planning application meetings with key personnel invited
  - Consult with the Strategic Investment & Regeneration Team to seek comments on planning applications and ensure discussions between the Team and developer are reflected in applications
  - Ensure the Planning Officer report reflects the Strategic Investment & Regeneration Team's affordable housing requirements.
  - Ensure that the affordable component is secured through the s75 agreement
  
- **Planning Obligation Officer**
  - Monitor the progress of development and ensure the requirements of the s75 agreement are being met
  - Securing the Affordable Housing provision within the s75
  
- **East Lothian Council's Legal Team**
  - Securing the Affordable Housing provision within the s75
  - Securing Affordable Housing Agreements
  
- **Registered Social Landlords**
  - Seek support from the Council to deliver affordable housing
  - Agree housing mix and house types with the Strategic Investment & Regeneration Team
  - Ensure the Council is aware of phasing and timing for the purposes of the SHIP and Scottish Government's Affordable Housing Supply Programme.
  - Develop good working relations with developers to co-ordinate joint proposals



- **Developers**
  - Seek early discussions with East Lothian Council's Planning Department
  - Seek early discussions with the Strategic Investment & Regeneration Team to determine affordable housing requirements
  - Ensure that the requirements for affordable housing and any other Section 75 requirements are reflected within land negotiations
  - Develop good working relations with both the Council and Registered Social Landlords to co-ordinate proposals

## **8 Monitoring and Review**

This SPG and associated mechanisms for delivery will be reviewed in accordance with the development planning cycle in relation to the HNDA, LDP and LHS and any other relevant information. It is anticipated that this SPG will be reviewed every two years. Reviews will be more regular if a material change takes place i.e.

- changing legislation, policy or guidance
- housing need assessments reflect significant changes
- a material change in market conditions is evidenced which impacts upon commuted sum values

Monitoring of planning approvals and completions via the Housing Land Audit and SHIP will also inform Affordable Housing Policy review. The SHIP will be submitted to the Scottish Government every two years with the next submission due in November 2016.

The availability of Scottish Government subsidy will also change. This is confirmed annually at present, which creates difficulties in relation to agreeing tenure splits. It is anticipated that these annual programmes will change in coming years to reflect a three year programme.

Commuted sums and affordable sale prices will be reviewed every two years or earlier if there is a considered material change in market conditions. It is therefore anticipated that this guidance will also be reviewed every two years to reflect changing circumstances.

**Appendix 1 – Delivery Package Schedule**

**AFFORDABLE HOUSING AGREEMENT BETWEEN**

**East Lothian Council**

**And**

.....

1. Project Location/Description
  
2. Agreed Project Objectives  
*Affordable Housing Provider*
  
3. Anticipated Outputs  
*What the project(s) will produce – proposed number of units, house types/client groups, tenure mix*
  
4. Phasing  
*Assumed date / type of next submission to East Lothian Council*  
*Assumed phasing*  
*Assumed site start date*  
*Assumed Completion Date*
  
5. Any other Conditions/Requirements

Signature (East Lothian Council) .....

Signature .....

Date of Agreement .....

## **Appendix 2: Principles for Mid-Market Rent/Intermediate Tenure Rent**

Properties to be made available as mid market or intermediate rent should be made available at a level below Local Housing Allowance rates.

### **Eligibility Criteria**

In the allocation of mid market rent housing priority will be given to applicants who fulfil the following criteria:

- Applicants must have sufficient income to allow them to pay rent without the need to apply for Housing Benefit.
- Meet income criteria – set out below.
- You have a local connection to the housing area. A local connection consists of those applicants who currently live or work within the housing area or have immediate family in the area.
- The property must be appropriate for the household size. (Properties should be allocated according to the occupancy levels detailed in the Council’s allocations policy for example a couple with 1 child would be eligible for a 2 bed property)
- The property must be occupied as the households’ sole and principle home.
- Applicants who don’t have a regular income, but have access to other funds will be considered.
- Applicants will be required to provide satisfactory references and have a good credit record.

### **Priority Groups and Ranking**

When allocating mid market rent properties, preference will be given to the following in order of:

- Those households accepted for housing under the homeless legislation/statutory homeless.
- Those households at risk of homelessness.
- Those on Council or Housing Association waiting lists who have a local connection to the Housing Area.
- Those on Council or Housing Association waiting list who have a local connection to East Lothian.
- Those currently living in unaffordable private rented housing or with relatives within the East Lothian area.
- Those who have been forced to sell their home due to a change in circumstances (e.g. reduced income) and who cannot obtain a mortgage nor afford private market rents.
- Potential first-time buyers in employment but unable to secure a mortgage.

<b>Area</b>	<b>Affordable Housing rent</b>
Musselburgh	90%
Wallyford	80%
	85%
Tranent	80%
Haddington	90%
Dunbar	80%
North Berwick	90%

<b>Local Housing Allowance</b>	<b>Bedroom Size</b>	<b>Income Range @ 80% LHA</b>	<b>Income Range @ 90% LHA</b>
£535.69	1	£16,600 - £20,800	£18,700- £23,400
£649.09	2	£20,200 - £25,000	£22,600 - £28,400
£808.04	3	£25,000 - £33,000	£29,000 - £36,400

Local Housing Allowance is updated annually on the Council's website [https://www.eastlothian.gov.uk/info/210559/council\\_tax\\_and\\_benefits/12087/housing\\_benefit/5](https://www.eastlothian.gov.uk/info/210559/council_tax_and_benefits/12087/housing_benefit/5)

### Appendix 3: Income Details / Sale Prices –

Income and sale price will be dependent on the circumstances and size of property being marketed. The applicant will need to demonstrate that they cannot buy a house suitable for their needs on the open market and the amount they can contribute is the maximum mortgage they can reasonably obtain plus their contribution towards the deposit.

Ward	Housing market area	Median household income	single income	Average flat price	Mortgage multiplier x3	Discounted flat price 15% deposit
1	Musselburgh West	£32,124	£28,361	£130,000	£85,085	£100,100
2	Musselburgh East and Carberry	£28,783	£25,500	£125,000	£76,500	£90,000
3	Preston/Seton/Gosford	£32,296	£29,920	£120,000	£89,760	£105,600
4	Fa'side	£32,009	£30,600	£120,000	£92,800	£108,000
5	North Berwick Coastal	£42,092	£39,746	£167,000	£119,238	£140,280
6	Haddington and Lammermuir	£36,182	£31,166	£125,000	£93,500	£110,000
7	Dunbar and East Linton	£37,213	£31,166	£125,000	£93,500	£110,000

Source: CACI data (2013) and DV calculation of commuted sum figure for each East Lothian ward area (August 2014)

Income Figures and Suggested Discounted Sale Price for a 2bedroom 4 person house 85sqm						
Ward	Housing market area	Median household income	Average household income	Average 2bed House Price	Mortgage multiplier x3	Discounted 2bed House price 15% deposit
1	Musselburgh West	£32,124	£37,956	£172,500	£113,868	£133,962
2	Musselburgh East and Carberry	£28,783	£34,399	£167,500	£103,197	£121,408
3	Preston/Seton/Gosford	£32,296	£37,895	£152,500	£113,685	£133,747
4	Fa'side	£32,009	£38,048	£150,000	£114,144	£134,287
5	North Berwick Coastal	£42,092	£50,029	£210,000	£150,087	£176,573
6	Haddington and Lammermuir	£36,182	£42,948	£172,500	£128,844	£151,581
7	Dunbar and East Linton	£37,213	£44,066	£167,500	£132,198	£155,527

## **Appendix 4: Criteria for Unsubsidised Low Cost Home Ownership (Discounted Sale Model)**

### **Who is Eligible?**

- **Those who are first time buyers**

Gross annual household income will be taken into consideration. Savings will also be taken into account. The income of each applicant will be verified by East Lothian Council.

Purchasers must be able to secure a mortgage for their contribution.

Purchasers must be able to fund fees associated with the purchase of the property.

**Note: this is just a guide and other Applicants may also be considered e.g. those who can evidence a significant change in household circumstances.**

- **Those second time buyers**

In need of a larger property and unable to step up on the open market.

Overcrowded and evidence that the applicant is unable to step up

Disabled person in unsuitable accommodation and the property being purchased is suitable for their needs.

Marital break down

Circumstances and savings will also be taken into account. The income of each applicant will be verified by East Lothian Council.

***(Please note that the size and property offered will be dependent on income and sale price)***

The applicant will need to demonstrate that they cannot buy a house suitable for their needs on the open market and the amount they can contribute is the maximum mortgage they can reasonably obtain plus their contribution towards the deposit.

## Appendix 5: Commuted sums

Ward	HMA	commuted sum	
		house	flat
3	Preston/Seton/Gosford	£26,000.00	£7,400.00
5	North Berwick Coastal	£72,300.00	£45,400.00
1	Musselburgh West	£41,200.00	£15,400.00
2	Musselburgh East and Carberry	£37,000.00	£11,400.00
6	Haddington and Lammermuir	£41,200.00	£11,400.00
4	Fa'side	£25,500.00	£7,400.00
7	Dunbar and East Linton	£37,000.00	£11,400.00

**These values are a guide and specific sites may require a separate valuation depending on the specific circumstances**

## **Appendix 7: Contact List**

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## Affordable Housing Supplementary Guidance

### Consultation Responses

Respondent	Response received	Comments
<b>Persimmon</b>		
1. Purpose of Document	Inclusion of wording to reflect that all matters require to be discussed and agreed with the Council's Strategic Investment & Regeneration Team undermines clarity and that all references where it is stated that a developer must agree parameters should be caveated with the requirement for the team to 'act reasonably'	Happy to insert 'acting reasonably'
4.1 Site Threshold (Policy HOU3)	Last sentence of para 3 – the provision of serviced land should be transferred to deliver an affordable housing contribution should be addressed under section 4.5  Wording should be changed to accurately reflect LDP HOU3	Amended  This does reflect this policy position
4.2 pre-application discussions	Include 'act reasonably'	
4.3 Affordable Housing Mix	Lack of detail on specific tenures undermines confidence in the process and does not provide the level of clarity considered necessary  Delivery of social rent through the transfer of serviced land or completed units. Detail of procurement process needs to be clarified to allow developers to fully assess and guide commercial decisions	Agreed to keep existing policy decision and refer to an 80:20 tenure split in favour of social rent.  Included options for delivery including the provision of stage payments

4.4 Delivery Partners	Concern around ELC having absolute right over who the housing provider should be. Overly prescriptive and not in accordance with policy HOU3 and 4. Guidance should also set out the process of selecting or approving an affordable housing provider	A Link to the SHIP has been provided within the document, which provides guidance on the preferred Affordable Housing provider.
4.5 Securing the affordable housing contribution	Limitation of who the affordable housing provider is considered overly restrictive	The Affordable Housing Provider must be agreed with the Strategic Housing Authority
4.9 viability Assessment	Question definition of abnormal development costs in line with normal valuation practices	Disagree. Advice sought from the District Valuer
<b>Walker Group</b>		
1. Purpose of the Document	Falls far short of providing clear, transparent and consistent advice. It cannot assist in the early negotiations with landowners as requirements are too basic i.e. 25% contribution	Should assume social rent. Reinstated existing policy requirement to deliver 80:20 tenure split in favour of social rent.
2. National and local context	Misinterprets national policy by suggesting that SPP14 and the PAN advise the nature of the contribution is typically the provision of serviced land when this is not the national policy position – it is that the contribution is likely to be made in a variety of ways depending on the nature of the affordable housing required  Reference to local housing policies do not clarify or confirm the affordable requirements in anyway	Para 19 of the PAN 2/2010 2 <sup>nd</sup> sentence clearly sets out the requirements  Para 20 – advised of other contributions which the policy also acknowledges  A link to the new LHS has now been inserted
3. Identified Need	No evidence to support social rented housing. Use of the word primary is misleading and implies other affordable models are secondary	They are but difficult to evidence using HNDA 1
4. Approach to affordable housing delivery	Reference to serviced land should be amended to clarify that where the delivery of affordable	Reflected within the document

	housing land is agreed as the provision of serviced land otherwise this looks like it is the only option	
4.1	Approach is not clearly set out as it refers to negotiation on a site by site basis.	A link to the current SHIP has been inserted and a tenure split of 80:20 has been reinstated.
4.2	Acknowledgement that It is not always possible to ensure development of the affordable housing can be developed in tandem since location within a site and servicing constraints may arise issues of H&S in respect of multiple developers operating together	The policy refers to phasing and delivery mechanisms to be agreed which should reflect this.
4.3	Reference to preference to social rent should be removed.  Objection to the requirement to reach agreement with ELC in relation to the AH provider as this prevents the full range of affordable housing tenures available.	This reference has remained with the previous policy requirement of 80% social rent reinstated.  Agreement must be reached with the Strategic Housing Authority
4.5	Object to agreeing the delivery package prior to COD as this is contrary to the test of reasonableness in circular 3/2012 Planning obligations and good neighbour agreements. This requirement could delay the development of housing land. This should be prior to completion of the housing site or after a period of time following commencement  Cascade approach is operating a sub cascade i.e. preference of serviced land and transfer of units.	Clarity around the meaning of delivery package has been inserted and a schedule appended.  This has been amended to clarify that onsite provision is the preference with both serviced

	This is not supported by the LDP policy or national policy guidance. Furthermore, reference to serviced land being valued at an appropriate end use is not in line with policy HOU3	land and units being equal, although this still requires to be agreed between the developer and affordable housing provider.
5	Clarity around commuted sums areas i.e. towns or sub market areas	Commuted sum methodology was consulted on and is fixed for 2 years
6	Delete sentence referring to densities should not be assumed to be higher than market housing  SPG should contain acceptable housing mixes  Unreasonable request not to burden affordable housing with factoring costs when it is the council requiring all the open space	This has not been deleted.  A list of house types has been provided, however acceptable housing mixes will depend on the site, location and timing of the development. This detail cannot be provided in this document
7	Acceptable tenures are not clear in the guidance	Reference to an 80:20 tenure split has been reinstated. Chapter 6 clearly sets out the different affordable tenures.
8	Developers need the council to guarantee to respond to the masterplan and design matters in a timely response and that failure to do so will not affect the developer's ability to proceed with a development proposal. If the council cannot adhere to committed timescales then the developer should be able to rely upon his own interpretation as the SPG does not provide the clarity	Agreement must be reached between the Strategic Housing Authority and the Developer
<b>Homes for Scotland</b>		
	Concern that what is happening in practice is not always in line with what is set out in guidance	Guidance has yet to be approved / adopted

	<p>Concern default position is always to speak to the housing team. This undermines the guidance as every site is taken on a case by case basis</p> <p>The SPG needs to include more detail on what will actually be required in terms of mix and tenure.</p>	<p>We have provided house types but the mix will be depended on the site, location and timing to reflect current need. A tenure split of 80:20 has been reinstated.</p>
	<p>Cascade approach in the s75 gives less flexibility than the guidance suggests. PAN states that a range of tenure types can contribute to affordable housing</p> <p>HOU4 also provides a range of options therefore it would be pragmatic to include detail of these requirements and then consider a flexible approach to the contribution which may not always be serviced land</p>	<p>The s75 provides the flexibility required with onsite provision being the preference either through serviced land or units.</p> <p>This has been amended to give serviced land and units equal options and reference to an 80:20 tenure split has been reinstated as per previous policy.</p>
	<p>Query the reliance of ELC's small number of affordable housing providers and the preference of these over others in terms of allocation of funding. Further it is currently unclear how the process of selecting an AH provider is carried out. This should include the developer.</p>	<p>A link to the SHIP has been inserted which provides clarity on preferred Affordable Housing provider. Agreement must be reached with the Strategic Housing Authority</p>
	<p>Policy HOU3 requires agreement of affordable housing provision and provider, however, in practice this is being dictated by the authority with no input from the developer</p> <p>Policy HOU4 states affordable housing tenures will be supported, including the requirement for social rent as well as targets for proportional split between other acceptable tenures and how</p>	<p>Agreement must be reached with the Strategic housing Authority to ensure support for Scottish Government subsidy.</p> <p>Reference to an 80:20 tenure split has been reinstated to reflect our previous policy and provide more clarity.</p>

	these models should be delivered – SPG does not do this.	
<b>Holder Planning</b>		
HOU4	Guidance does not provide flexibility of tenures and states preference is for social rent. There is no evidence to support this. Guidance needs to be amended to provide a more balanced provision strategy to take account of the flexibility contained in SPP and PAN 2/2010	A link to the adopted LHS has been inserted to provide further evidence on the need for social rent. Other tenures are also acknowledged and reference to 80:20 tenure split has been reinstated to reflect current policy.
	Guidance limits options to deliver for a range of needs. In addition, the value being offered by the council means developers cannot viably build the units for sale. Other social housing providers can provide more competitive values due to a wider funding pull. However, ELC are preventing RSL's from negotiating directly. ELC are creating a monopoly on affordable delivery	ELC require agreement to be reached with the Strategic Housing Authority to ensure support for Scottish Government subsidy. The policy reflects other methods of procurement.
	It is clear from the emerging SESplan2 that flexible approaches to the delivery of affordable housing will be essential to meet the scale of delivery expected. The council should reconsider its guidance to ensure that it does not act as a deterrent to achieving its objectives	The guidance acknowledges this and requires agreement as early as possible.
	Amending the guidance to include details of the actual requirements in terms of housetype and tenure mix will provide more clarity and certainty for developers	This has been acknowledged
	Question the reliance on a small number of providers and clarity over selection process needs clarity. This process should also include the housebuilder	A link to the current SHIP has been inserted to provide more clarity around the preferred Affordable housing providers.



<b>Cruden</b>		
1	No comment	
2	Set out clearly	
3	<p>Figures are based on need from previous years. Is there evidence to suggest this need for affordable housing between 2009-18 has been met</p> <p>Does this impact on projections from 2018-32</p> <p>Net housing need of 232 units per annum appears low – are ELC trying to front load delivery to meet SG targets?</p>	A link to the new LHS 2018-23 has been inserted to provide further clarity
4	Too prescriptive with the council in control of the whole process. Nervousness that this could prolong delivery and make it more complicated	Agreement must be reached with the Strategic Housing Authority. A link to the SHIP has also been inserted to provide further clarity.
<b>CALA</b>		
1	<p>No evidence to clarify need for social rent</p> <p>Aim to promote consistency is undermined as matters are treated on a site by site basis</p> <p>Mix of house types and tenure mixes on a sub area basis would be helpful</p>	<p>A link to the 2018-23 LHS has been inserted</p> <p>An 80:20 tenure split has been reinstated</p> <p>As above, although the development of a Local Investment Framework in the future will improve this.</p>
2	This section needs to be more aligned with the LDP policies	Reflected
3	<p>Require further evidence on need for specific tenures</p> <p>SPG does not set out targets as stated in HOU4</p>	80:20 split now inserted

	<p>therefore does not provide the suitable framework for implementing HOU4</p> <p>SPG references an ageing population. There are cases where an affordable housing provider has provided evidence of need for MMR for over 55's but this is not been taken into account by the council. It would be helpful if tenure splits were identified earlier</p>	As above
4	Often the council / ah provider determines their interest in a site without any discussions with the developer and the council allocates funding without input from the developer on timescales for delivery. It would be helpful if the actual owner of the site were involved.	This is not the case. The SHIP aligns with the HLA, which the developer has input into.
5	Commuted sum would be better on a site by site basis as there is not sufficient flexibility to respond to any changes in circumstances in the short term	Individual valuations can be instructed if the developer feels the commuted sum does not reflect the value of a specific site
6	Helpful if the council agreed a standard range of housetypes. This would allow applicants to allocate a suitable area within masterplans at PPP stage to plot the mix that would meet council requirements	This has been inserted, however a mix cannot be agreed until a proposal has been received.
7	HOU4 is not reflected. Concern that the default if serviced land to the council for social rented housing	Agreement must be reached with the Strategic Housing Authority
8	Does not meet requirements of HOU3 and HOU4	
<b>DCHA</b>		
1	How enforceable is the SPG	Agreement must be reached with the Council

2	Ambitions for affordable housing are more than reasonable	
3.1	Why HNDA1 and not HNDA2	To ensure this aligns with the LDP
4.3	Two delivery mechanisms are too restrictive, both having disadvantages. Land transfer results in higher costs and turnkey results in limited control over design and quality. D&B should be an option	This has now been reflected within the revised document
4.4	ELC should have a strategy to include the proportion of the council's affordable housing programme, how the RSLs can support this programme and to what degree are developers encouraged to engage with them	A link to the SHIP has been inserted
5.3.8	Welcome factoring section, however this needs to be stronger i.e. expected rather than wherever possible.	
6.2	Amend wording to reflect MMR may be provided via an RSL – current legislation does not allow an RSL to let MMR.  MMR rent level will be agreed and will be lower than LHA levels. A constraint on the level of rental increase could be mentioned to ensure MMR units remain at an affordable level in perpetuity	Noted
Appendix	Income range is narrow and consideration of council tax in some areas is high	
	MMR for older people should be included i.e. recommended criteria being in employment should be removed as this is not applicable to this client group	Noted

<b>PFP</b>		
4.1 Threshold	Threshold of 5 or more is too low – should be increased to 20	This would prevent delivery in some rural areas
5.3.3 House types	PFP's allocation policy do not allow for 3p units 3bed flats should be considered in urban areas	The House types are just a guide. Consideration will be given to reflect specific sites, location and need.
	Preference for cottage flats rather than flats over 2 storey high  Should refer to minimum room sizes based on HfVNs and SHQS	Noted
6 Tenures	Suggestion that a tenure split of say 70/30 would be beneficial to them and developers.	80:20 split has been reinstated.
7. Partnership working	Importance of Council contacting the RSL at its earliest convenience for the developer to begin negotiations with the RSL i.e. invite to pre-planning discussions	Noted