

**Draft Affordable Housing Statement of Common Ground**

**West Berkshire District Council and the Appellants agree the following in respect of affordable housing provision:**

**Core Strategy**

1. Policy CS3 of the Core Strategy requires the provision of at least 40% of the dwellings at Sandleford Park to be affordable housing;
2. Policy CS6 seeks ~~by negotiation~~ the provision of 40% affordable housing on greenfield sites of more than 15 dwellings and "a tenure split of 70% social rented and 30% intermediate affordable units". ~~Any lower level of affordable housing would need to be justified by a viability assessment.~~

~~Policy CS6 indicates that the Council will seek a tenure split of 70% social rented and 30% intermediate affordable housing.~~

**Sandleford Park SPD**

3. The Sandleford Park SPD refers ~~back to the Policies CS3 and CS6~~ of the Core Strategy and ~~requires at least 40% affordable housing does not add any additional requirements (pages 5 & 51). "Extra care housing ... could be provided as part of this requirement" (Page 51).~~
4. ~~The SPD acknowledges that Extra-Care Housing could be provided as part of the 40% affordable housing (page 51):~~

**Planning Obligations SPD**

~~5.4. TP – 1 Affordable Housing. "This Topic Paper sets out how the Council will deal with planning applications where the provision of affordable housing will be required". It is "acts as supplementary guidance" to Policy CS1" and CS6 of the Core Strategy (Page 14). Paragraph 1.30 states: "to ensure satisfactory integration, affordable housing on new developments should be fully integrated within the general market housing. The Council expects affordable housing to be 'pepper potted' throughout a development. Where practicable, this means that affordable housing should be in groups of not more than 5 dwellings at any single location within the development. This approach is fully consistent with Government policy."~~

**Unilateral Undertaking**

5. The Council's comments to the travelling draft<sup>1</sup> of the Unilateral Undertaking in the accompanying email in response to the Appellants' solicitor's points are appended to this SoCG. They were provided on 30<sup>th</sup> April 2021 and have not been responded to by the Appellants to date. They do not appear to have been read alongside the comments in the accompanying Council email mentioned above. The Council has yet to see which of the Council's amendments to the Unilateral Undertaking have been agreed by the Appellant and there is one incomplete sentence concerning the cascade mechanism, whereby the Council does not understand the appellant's position.

6. The travelling Draft includes the following obligations/covenants:

**Quantum**

7. Unless otherwise agreed by the Council in writing, the Appeal Scheme will provide:
- a) at least 40% of the Residential Units within the Development as Affordable Housing Units;
  - b) 70% of the General Affordable Housing Units will be as Social Rented Housing and 30% of the General Affordable Housing Units will be as Intermediate Housing;
  - c) 70% of the Extra Care Housing Units will be as Social Rented and 30% of the Extra Care Housing will be Intermediate Housing<sup>2</sup>;
  - d) the General Affordable Housing Units in shall accordance with the Target Housing Mix (which is in accordance with the Council's Strategic Housing Market Assessment)

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**Affordable Housing Scheme**

8. For each Phase of the Development an Affordable Housing Scheme shall be submitted for the approval of the Council. Each Affordable Housing Scheme will include details of the following for that Phase to ensure and confirm that:
- a) the residential mix for general affordable housing matches the Target Housing Mix,
  - b) the location of the Affordable Housing Units, is pepper potted throughout the Phase area and in clusters ranging from 5 to a maximum of 12 units, depending on size mix and tenure,
  - c) the tenure mix is 70% social rented and 30% intermediate,

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<sup>1</sup> The most recent version is referenced: Council Draft 30 April 2021 to be read alongside Council's Solicitor's comments in covering email to the Appellants' solicitor dated 30.04.2021 and sent at 16:57 hrs.

<sup>2</sup> ~~The Council accepted the need for flexibility within the Extra Care tenure split and would agree to adding "or alternative tenure mix agreed between the Council and the extra care provider~~ WBC DOES NOT AGREE THIS STATEMENT

- d) the triggers for the delivery of the affordable housing units, the Intermediate Housing Scheme to ensure that no more than 80% of the open market units in a phase have been completed and occupied until all the affordable housing units in that phase have been completed and are available for occupation, and
- e) the Intermediate Rent Scheme, which should not exceed 5% of the overall number of affordable units or 1/6<sup>th</sup> of the intermediate units, as at least 5/6ths of the intermediate units must comprise affordable home ownership to satisfy the minimum 10% requirement in NPPF paragraph 64.
9. Only with the approval of the Council will tenure of affordable housing set out in 9(b) and 9(c) be capable of being different. The Appellants cannot unilaterally pursue a different approach towards affordable housing provision.

**Extra Care Housing**

9. The extra care units are not being requested by the Council and the Council does not feel there is a current need for this number of units. The Appellants have decided to propose the provision of Extra Care Units, as part of the affordable housing, presumably having carried out their own market / housing needs research confirming the need for such housing.
10. The Extra Care Housing shall comprise 70no 1-bed flats and 10no 2-bed flats and will be located in Development Parcel Central re – the tenure mix for this element will be agreed as part of the Extra Care Affordable Housing Scheme. The tenure mix should be 70% social rented and 30% intermediate and any extra care units that can't be so, have to be market housing and the Appellants/Developer has to provide equivalent number of additional units have to be identified and provided within the development to comply with the pepper-potting, clustering, unit size mix and tenure split requirements.
11. The owners shall enter into an agreement with an Extra Care Provider who shall prepare an Extra Care Scheme that will be submitted with the relevant Reserved Matters Application (DPC).
12. In the event the owners are not able to conclude an agreement with an Extra Care Provider in respect of part or the whole of the extra care units, then the units which were meant to comprise extra care housing would become market housing and the Appellants/developer will identify additional replacement units within the development which would otherwise have been market housing to provide replacement affordable housing of the comprise market housing to fully comply with to comply with the pepper-potting, clustering, unit size mix and tenure split requirements. They will need to be distributed across the development, and subject to them providing evidence to the Council to demonstrate the endeavours taken to conclude such an agreement, that Affordable Housing shall all be provided as General Affordable Housing and distributed in accordance with the Affordable Housing Scheme for DPC as approved in that circumstance.<sup>3</sup>

**Commented [WBC1]:** The Council does not accept any time limit however if at any time agreement cannot be reached the units should be turned into market units and then the affordable housing needs to be re-distributed elsewhere in the development (pepper potted and in small clusters and to reflect the agreed mix and tenure split for general affordable as per condition/UU). As per earlier comments the Council is of the view that a further application needs to be submitted to change the extra care units to either market housing or general affordable. We do not believe it can be done by a s73 application and therefore we do not believe these clauses are necessary.

**Commented [WBC2]:** It is unclear as to what this means exactly, so delete. If it means what it says above than all's well and good. Bottom line is that assuming 1080 units overall, 432 should be affordable of the right mix etc, and 70% of that should be social rented etc.

<sup>3</sup>-This principle is set out in the Housing Development Officer's response to the planning application (dated 5<sup>th</sup> August 2020) (CD2.29)

### **Phased Provision**

13. In the event the Extra Care Housing is provided, each phase of the development shall provide between 30% and 40% of the residential units as General Affordable Housing in accordance with the relevant Affordable Housing Scheme. The Council will not approve an Affordable Housing Scheme if it provides less than 40% when the average provision across the previous approved Phases is less than 40%; this is to provide an appropriate reconciliation throughout the development process.
14. In the event the Extra Care Housing is not provided, each phase of the development shall provide between 35% and 45% of the residential units as General Affordable Housing in accordance with the relevant Affordable Housing Scheme. The Council will not approve an Affordable Housing Scheme if it provides less than 40% when the average provision across the previous approved Phases is less than 40%; this is to provide an appropriate reconciliation throughout the development process.

### **Cascade**

15. *From Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing to Intermediate Housing:* The owner is only permitted to cascade from Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing to Intermediate Housing with the approval of the Council and such approval shall only be provided where the owner has provided to the Council reasonable evidence of efforts made to conclude an agreement with a Registered Provider and has provided a full open book viability assessment using an agreed toolkit demonstrating that such units are unviable and setting out a proposal as to what tenure or combination of tenure would be viable.
16. *From Intermediate Housing to Market Housing:* The owner is only permitted to cascade from Intermediate Housing to Market Housing with the approval of the Council and subject to the payment of the Affordable Housing Commuted Sum.
17. Whilst the Council have concerns in respect of certain of these points (listed below) it is agreed that, in these terms, the approach to affordable housing would be acceptable and would accord with Policy CS6 of the Core Strategy.

### **Designated Protected Area**

18. Notwithstanding that the part of the Appeal Site within Greenham Parish, is within the Greenham Designated Protected Area<sup>4</sup>, the restriction that this designation could apply in

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<sup>4</sup> Regulations are in place to ensure that rural affordable housing – specifically grant-funded shared ownership properties – remains in the ownership of local people. Where that is the case, providers are required to offer grant-funded shared ownership properties with a lease that contains provisions either: i) to restrict staircasing to no more than 80%; or ii) that in instances where the leaseholder is permitted to acquire more than 80% (i.e. up to full ownership), then there is an obligation on the

terms of the acquisition of equity shares, is not appropriate for the scale of development proposed and a waiver can be applied in this instance. A waiver needs to be given by Homes England and therefore it is not in the Council's gift to agree this, albeit the Council has agreed to assist with the application for a waiver and to remove the clause from the s106

19. *From Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing to Intermediate Housing:* The owner is only permitted to cascade from Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing to Intermediate Housing with the approval of the Council and such approval shall only be provided where the owner has provided to the Council reasonable evidence of efforts made to conclude an agreement with a Registered Provider and has provided a viability assessment demonstrating that such units are unviable and setting out a proposal as to what tenure or combination of tenure would be viable.

**Grant**

20. Whist the General Affordable Housing Need shall be provided with nil grant, the owners shall not be prohibited from seeking grant for the provision of the Extra Care Housing.

**Matters not agreed**

21. The following are the matters which the Council are not in agreement with:

- a. Tenure mix – Notwithstanding the contents of paragraph 7 above it remains unclear whether the appellants are seeking to provide the full policy compliant requirement of affordable housing, namely at least 40% affordable, of which 70% would be social rented and 30% intermediate with at least 5/6ths of the latter as affordable home ownership
- b. Clustering - The Affordable Housing shall not be in groups of more than 15 unless otherwise agreed in writing with the Council – the Council are seeking a restriction of the maximum size of a cluster to to 125, although a range of cluster sizes should be provided. The Council's position is: - the location of the Affordable Housing Units within that Phase which shall not be in groups of more than 5 Affordable Housing Units unless otherwise agreed in writing by the Council (for the avoidance of doubt groups of up to 12 Affordable Housing Units may be agreed depending on the tenure
- c. The principle of the extra care units and the need for the same. As extra care units form part of the description to the development the Council's view is that this cannot be amended under s73 TCPA 1990 and would require a new application/new s106. Therefore the detail regarding what would happen to the extra care units is not needed within the s106.

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landlord (or a designated alternative landlord) specified in the lease that commits them to repurchase the property when the leaseholder wishes to sell.

a.d. There should be no time limit for the owners to enter into an agreement with an Extra Care Provider.

b.e. The concept of a cascade mechanism whereby the affordable housing could go to market housing. Although the Council disagrees with the principle any viability of the Affordable Housing Units must be considered over the entire Development and not just a particular Phase. The goal should always be to provide on-site affordable housing and given the number of units the Council cannot envision a situation where no affordable housing would be provided and an off-site sum agreed.

End