



Affordable Housing SPD - Clarification Note

Version 3: August 2019

Background:

Dacorum Borough Council adopted its Affordable Housing SPD in September 2013, alongside its Core Strategy. The role of the SPD is to provide additional advice and guidance regarding how the Council will:

- implement Policy CS19: Affordable Housing and other relevant policies in its adopted Core Strategy; and
- calculate commuted sums where these are deemed appropriate in lieu of on-site provision.

The Affordable Housing SPD has now been in operation for a number of years and has been very successful in providing clear advice to both developers and Officers alike regarding the Council's requirements.

However, the Council considers that the Ministerial Statement of 28 November 2014 (House of Commons Written Statement – reference HCWSS50), combined with the associated on-going updates to the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) warrant a change in how this policy approach is applied.

There are also a few areas of the Affordable Housing SPD which the Council feels would benefit from further clarification. This note provides this clarification.

The Clarification Note has been updated in August 2019 to:

- align it with changes signalled in the NPPF (February 2019) regarding affordable housing on small sites that are not major development (para. 63);
- reflect the guidance on this matter in the PPG on 'Planning Obligations' (para. 023); and
- correct an error in the mapping of the "rural area" (see section 2a) and b) below).

The Council's approach will be kept under regular review and this Clarification Note amended as necessary in the light of any further guidance or clarification received either direct from Government or as a result of decisions issued by the Planning Inspectorate or High Court.

For information, Appendix 1 also includes a guidance note from the Strategic Housing Planning team setting out the Council's general expectations for on-site affordable housing contributions.

General Approach:

The general approach to determining where affordable housing is required within Dacorum remains unchanged i.e.

- STEP 1** Check if the scheme triggers the need for affordable housing under Policies CS6, CS19 or CS20;
- STEP 2** Check whether a waiver applies to contributions. This waiver is set by the Affordable Housing SPD as amended by the PPG.

The main effect of the recent Government announcements is to introduce a 'national waiver' approach that, in some instances, supersedes the waiver set out in the Council's Affordable Housing SPD. This waiver applies to developments of 9 homes or less which are located outside of the defined 'rural area' (see Figure 1). A lower waiver of 5 homes or less applies in the defined 'rural area' (see below).

1) Application of threshold

The Government waiver is assumed to apply to gross dwelling figures e.g. if 2 units are demolished and 9 new units are built, this creates 9 units gross. In other words, existing buildings on-site are not relevant to the calculations, except where they relate to calculations under the vacant building credit (see (3) below).

2) Calculating contributions

The flow diagram in Figure 2 sets out a number of questions which will determine how the new approach will be applied. It determines:

- i. If affordable housing contributions are required; and
- ii. If so, whether these are in the form of commuted sums or on-site provision.

The requirements for contributions, the amounts required and the thresholds that apply will vary depending on the geographical location, numbers of units, type of development and whether this relates to the re-use or demolition of vacant buildings.

(a) Number of units and geographical location:

The NPPF states that:

“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)...” (para. 63)

The PPG explains (para. 23) that contributions should only be sought from major developments i.e. of 10 homes or more. However, in designated 'rural areas' (as described under section 157(1) of the Housing Act 1985), local planning authorities may instead choose to set their own lower threshold in plans and seek affordable housing contributions from developments above that threshold.

The Council will apply the lower threshold within designated rural areas and seek contributions in the form of commuted sums from developments of 6-9 homes. This

approach of having a lower threshold in rural areas is consistent with the adopted Affordable Housing SPD. The Council’s previous approach has been to seek on-site provision in these locations.

For Dacorum the ‘rural area’ covers **all land within the Chilterns AONB** and includes all or part of the following parishes:

- Aldbury
- Berkhamsted
- Flamstead
- Flaunden
- Great Gaddesden
- Little Gaddesden
- Markyate
- Nettelden with Potten End
- Northchurch
- Tring
- Tring Rural
- Wigginton

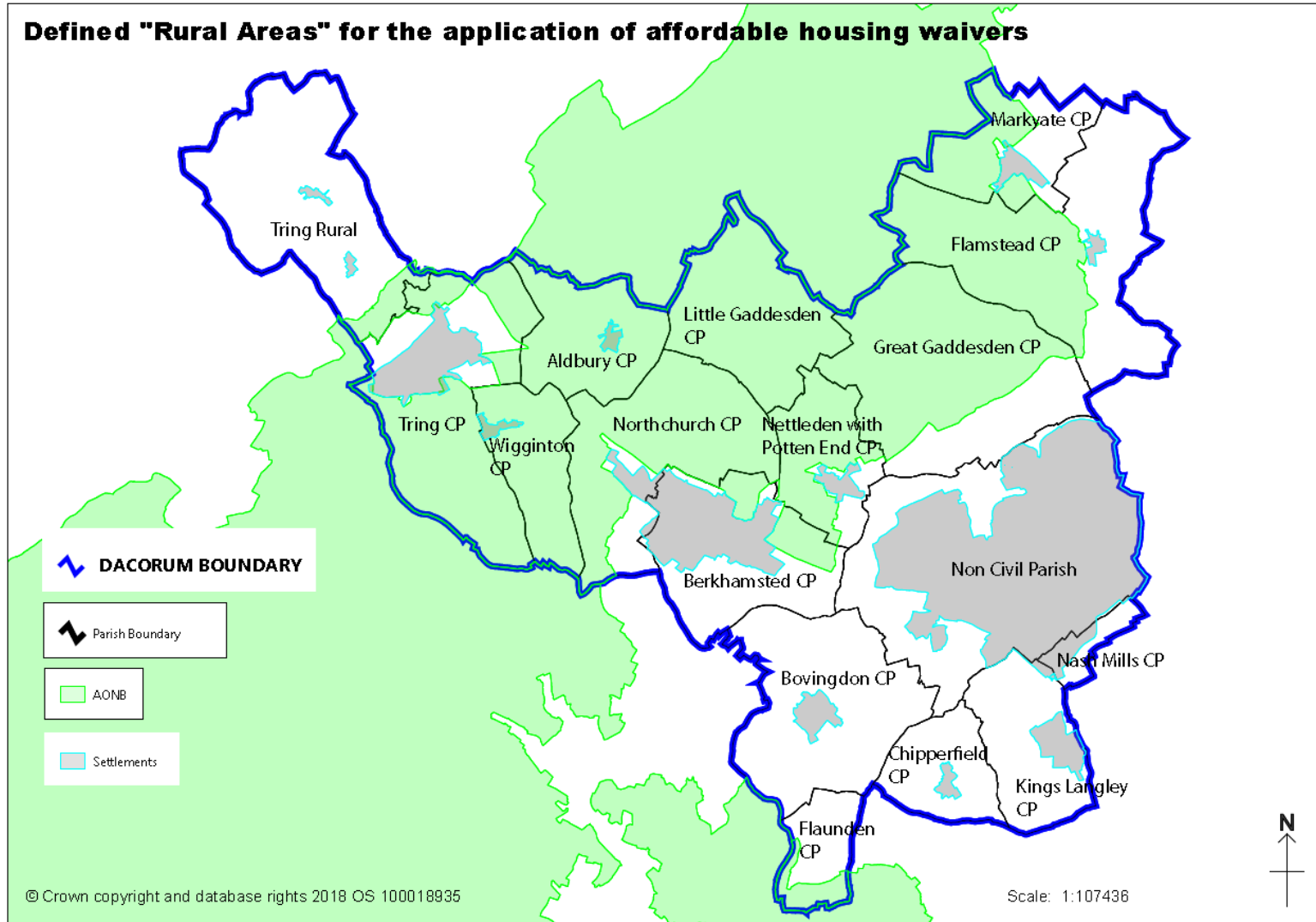
This ‘rural area’ is illustrated in the blue hatched areas in Figure 1 and the approach is set out in the flow diagram in Figure 2(a) below.

The position is summarised in Table 1.

Table 1 Summary of approach to affordable housing

Location	No. of units		
	1-5	6-9	10+
Within ‘rural area’	No contribution	Commuted sum	On-site contribution
Outside ‘rural area’	No contribution		On-site contribution

Figure 1 Extent of “Rural Area” in Dacorum



(b) Development type:

The Government announcements also impact upon how we apply our adopted policies for different types of development in a variety of ways:

Infilling in selected small villages in the Green Belt:

Within the villages of Chipperfield, Flamstead, Potten End and Wigginton, Policy CS6: Selected Small Villages in the Green Belt allows for limited infilling, provided that this is for affordable housing for local people.

However, Wigginton falls within the 'rural area' designated in the PPG, new dwellings will only need to be affordable where the scheme creates 6 or more units. As infilling is defined as schemes of 2 units or less (see paragraph 8.34 of the Core Strategy), this means that the requirement for infill development to comprise affordable units set out in clause (B) of Policy CS6 will no longer apply. Such development can now be offered for open market occupation.

This same approach would also apply in the case of Chipperfield Flamstead, and Potten End, except that the threshold would apply to developments of 10 or more units. However, development proposals that do not meet the definition of 'infill' development are not normally acceptable under Policy CS6: Selected Small Villages in the Green Belt.

Rural exceptions sites under Policy CS20 are still liable to provide full affordable housing contributions in accordance with the Council's adopted policy, the Ministerial Statement, and the PPG.

Other small scale housing schemes:

For other small scale housing schemes that do not relate to conversions of existing buildings, and for rural exception sites, Policy CS20: Rural Sites for Affordable Homes will apply. Policy CS19: Affordable Housing states that '*On rural housing sites 100% of all new homes will normally be affordable*'. No waiver will be applied and all provision should be on-site. This policy approach continues and is not affected by changes to the PPG.

Please refer to Figure 2 for further information.

(c) Site area

Both Policy CS19 and the Affordable Housing SPD refer to site size thresholds of 0.3ha for Hemel Hempstead and 0.16ha elsewhere. These thresholds relate to where affordable housing contributions should be provided on-site. These thresholds will no longer be applied.

3) Vacant Building Credit

The NPPG includes a reference to ‘vacant building credit’ which states that:

‘National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.’ (para.026)

It goes on to say that:

‘Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A ‘credit’ should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

The existing floorspace of a vacant building should be credited against the floorspace of the new development.’ (para.027)

This approach applies to all residential schemes, irrespective of their size and location. The NPPG does however make it clear that this credit will not apply to vacant buildings which have been abandoned.

There is currently no statutory definition of a “vacant building” and as such it will be for Officers to determine whether the credit should be applied on a case by case basis, or until clarification is provided through either case law or further guidance. Gross internal floorspace should be calculated in accordance with the RICs Code of Measuring Practice. Such information will normally be reflected within the CIL Additional Information form.

There is no nationally prescribed format for the calculation of the Vacant Building Credit. The Council will use the following methodology which has been subject to discussion by the Planning Officer Society CIL Implementation Group, unless a different approach is formally endorsed by Government:

- Step 1** - Calculate the number of dwellings that should be the affordable housing contribution on a given site – i.e. 35% of the total number of dwellings proposed.
- Step 2** - Calculate, as a proportion, the extent of existing floorspace compared against the proposed floorspace. Such calculations should be based on the

Gross Internal Area as set out within the CIL Regulations 2010 (as amended)

Step 3 - Make a deduction to the number of affordable dwellings to be provided based on the proportion identified at step 2

This will be calculated as follows:

$$RAH = AH - (AH \times E / P)$$

RAH = Revised number of affordable housing units to be provided.

AH = Expected number of affordable housing units to be provided prior to application of credit (i.e. 35% of total number of dwellings proposed).

E = Existing floorspace to be demolished.

P = Proposed floorspace to be created.

For example - A development of 50 dwellings on a site that has a building of 1,000 square metres which would be demolished. Assume a floorspace of 100 square metres for each new dwelling – i.e. 5,000 square metres new floorspace in total.

The normal affordable housing contribution would be 18 units (35% of 50)

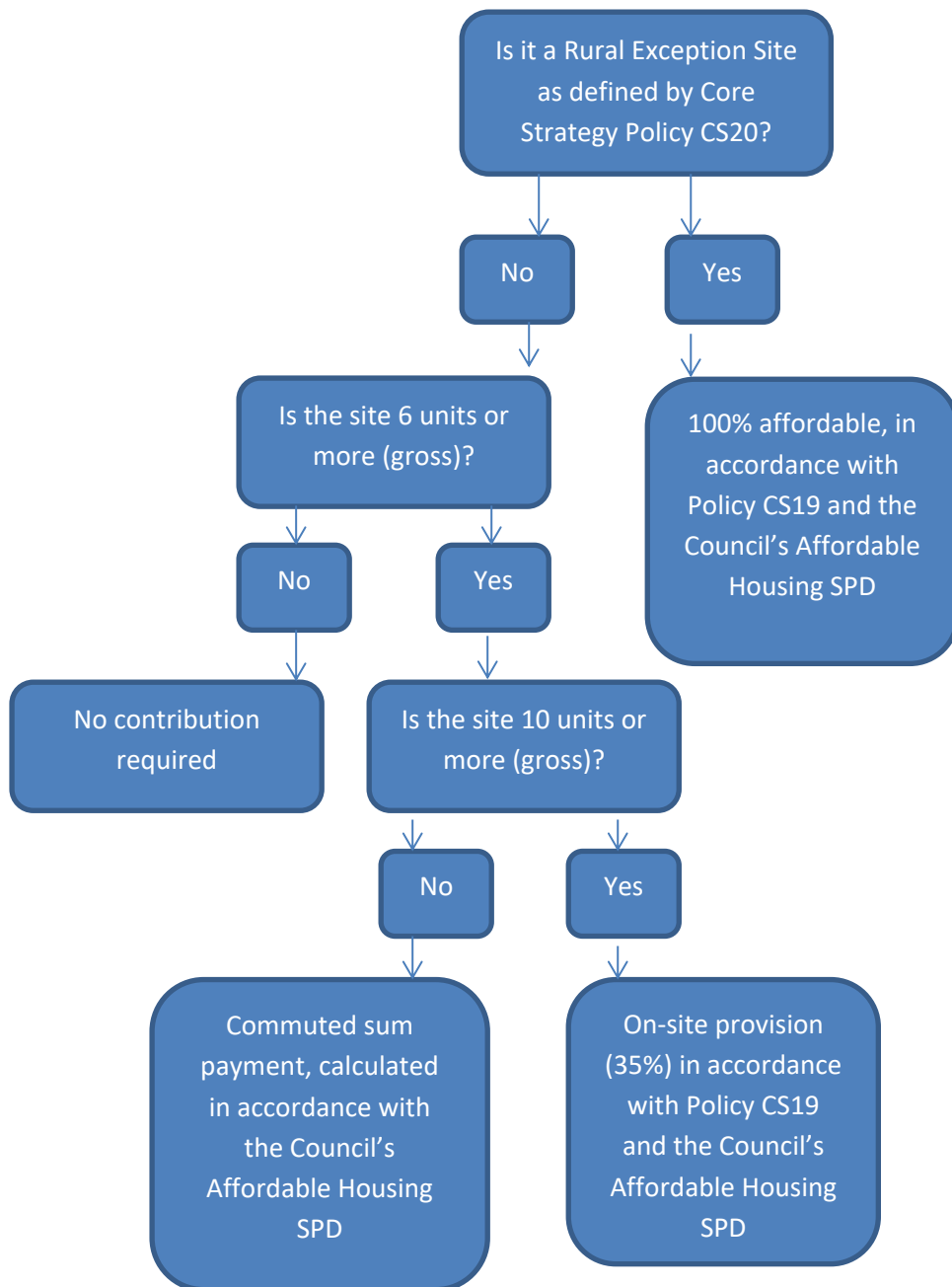
So the revised contribution would be $18 - (18 \times 1,000 / 5,000) = 18 - 4 = 14$

If the total floorspace of existing buildings to be demolished is equal to or exceeds the total floorspace created, then no affordable housing would be provided.

If affordable housing provision is in the form of commuted sums, the revised affordable housing unit figure will be translated into a financial contribution.

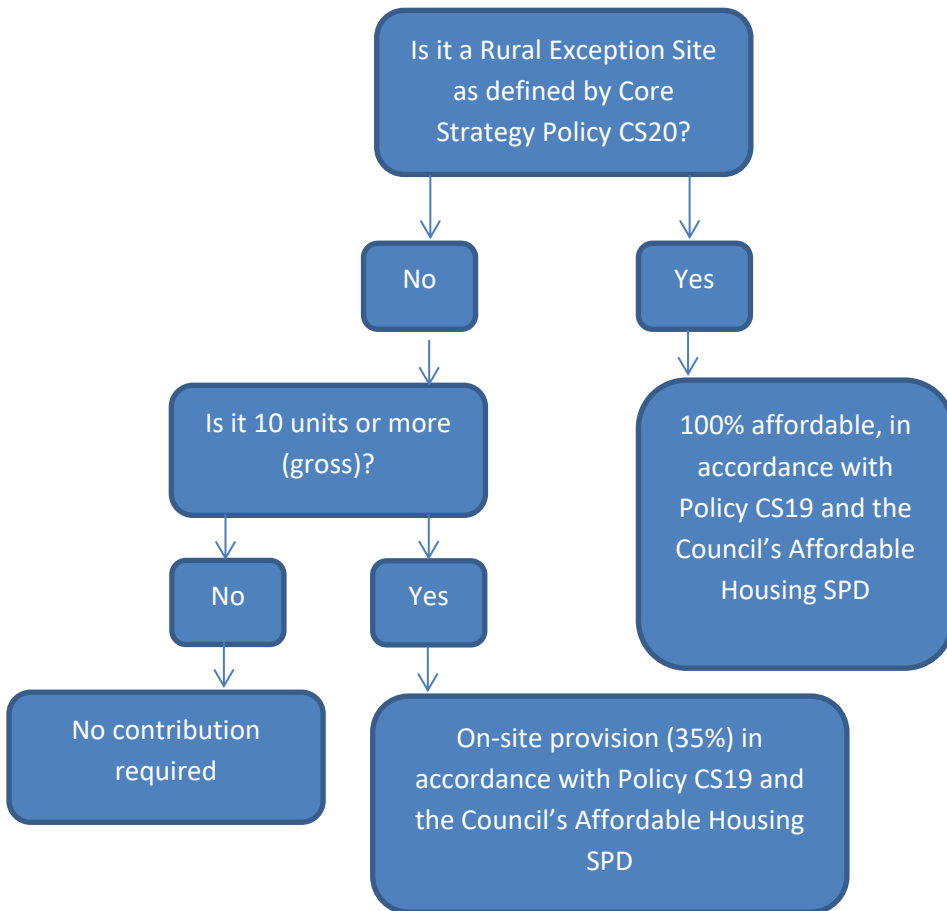
Figure 2

(a) Developments in defined 'Rural Areas' – as per Figure 1



Note: Contributions listed do not include any reduction required as a result of vacant building credit.

(b) Development outside defined 'Rural Area'



Note: Contributions listed do not include any reduction required as a result of vacant building credit.

Appendix 1

January 2019

Strategic Housing Affordable Housing Guidance Note

The Council will look to seek Affordable Housing requirements on all planning applications received and this Guidance Note provides a set of guidelines to consider when calculating the provision of Affordable Housing on a site-specific basis.

This guidance should be read in-conjunction with the amended NPPF (February 2019), the Council's Core Strategy, Affordable Housing SPD and latest version of the Affordable Housing Clarification Note.

<https://www.dacorum.gov.uk/home/planning-development/planning-strategic-planning>

Summary of Requirements

The requirements for contributions, the amount required and the thresholds that apply will still vary depending on the geographical location, number of units, total gross internal floor space, type of development and whether this relates to re-use or demolition of vacant buildings.

The tenure split for any Affordable Housing provision is 75% Affordable Rent and 25% Shared Ownership. This breakdown is negotiable dependent on any site constraints and characteristics that may prove difficult in meeting the requirement.

Non-Rural Calculations

Contributions are sought in non-rural areas (i.e. those areas outside of the Chilterns Area of Outstanding Natural Beauty) where developments will provide 10 or more units and calculated at 35% Affordable Housing provision. The unit breakdown is dependent on the requirements of the Council's housing waiting list and predominately looks to secure small to mid-sized units for both houses and flats. This will be assessed based on the proposed masterplan and Schedule of Accommodation that will ultimately accompany the planning application.

Rural Calculations

Rural areas located within the Chilterns Area of Outstanding Natural Beauty have a lower threshold. These sites are exempt from on-site Affordable Housing provision if:-

- 5 or less units are proposed.
- If the site delivers between 6-9 units then a Commuted Sum will be required.

Schemes of 10 or more, would require on-site provision in accordance with Policy CS19 in the Core Strategy.

Rural Exception Sites

These are small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating housing who are either current residents or have an existing family or employment connection. A Housing Needs Survey should be commissioned to identify this need, usually in conjunction with the relevant Parish Council.

How to Apply / Viability Process

Affordable Housing guidance is calculated appropriately based on the above set of requirements. If an applicant believes it to be unviable to deliver Affordable Housing, the Council will require a fully appraised Viability Assessment of the proposals and financial review, which will be outsourced to an independent third party at the cost to the developer. However, in order to help progress development to the benefit of all, the Council's Strategic Housing representatives would be happy to meet, in the first instance within 2 weeks of the application, to discuss 'valid' liability concerns and potentially negotiate and review the Affordable Housing provision. Should an agreement not be reached during this time a viability appraisal will be required.

Next Steps

As part of their new local plan the Council will be reviewing and updating their Affordable Housing SPD to reflect the changes to the NPPF (2019) to ensure that it reflects the latest definition of affordable homes, and adequate and appropriate levels of social housing is provided within Dacorum, this would include the provision of:

- a) % of Affordable housing to be Social housing
- b) % of units to be M4(2) accessible wheelchair units
- c) In certain areas of Dacorum the level of rent reduction would exceed the minimum 20%
- d) Social rented unit in lieu of Commuted sums

Whilst we note that at this time the Council cannot insist on the provision of a-d above, they would however consider these as part of current negotiations.