Camden Planning Guidance

Housing

CPG 2

London Borough of Camden

May 2016 (as amended March 2019)

Camden

CPG2 Housing

1 Introduction

What is Camden Planning Guidance?

1.1 We have updated this Camden Planning Guidance (CPG) to support the policies in the Camden Local Plan 2017. This guidance forms a Supplementary Planning Document (SPD) which is an additional "material consideration" in planning decisions.

1.2 The Council formally adopted CPG2 Housing on 6 April 2011 following statutory consultation. The Camden Planning Guidance documents (CPG1 to CPG8) replace Camden Planning Guidance 2006.

1.3 CPG2 Housing has been subject to five updates:

- 4 September 2013 following statutory consultation in November to December 2012;
- 17 July 2015 following statutory consultation in March to April 2015;
- 6 May 2016 following statutory consultation in February to April 2016 (the updated document is referred to as Housing CPG 2016); and
- 26 March 2018 following statutory consultation in November 2017 to January 2018;
- 15 March 2019 following statutory consultation in November 2018 to January 2019.

Details on these updates and the consultation process are available at camden.gov.uk/cpg.

1.4 The fourth update followed the adoption of the Camden Local Plan in 3 July 2017. This update deleted some parts of the Housing CPG 2016, and replaced them with a standalone document 'Interim Housing CPG'. The Interim Housing CPG will be incorporated into a new set of Camden Planning Guidance documents as part of a wider review expected to take place in 2019.

1.5 The fifth update inserted further new sections in the Interim Housing CPG, replacing section 6 of this document, and section 6 of CPG8 Planning obligations 2015. The update also amended the introductions to this document and the Interim Housing CPG to reflect the changes that have been made.

1.6 We have added notes throughout this document to indicate paragraphs that have been deleted or replaced by the Interim Housing CPG.

1.7 The Interim Housing CPG has been produced because:

- there are a number of policy changes emerging at regional and national level that would quickly have overtaken and superseded a full review of CPG2 if it had taken place in autumn 2017;

- emerging policy changes include the Government's revised National Planning Policy Framework – including new affordable housing definitions; but
- some elements of CPG2 needed to be replaced quickly to guide implementation of new policies in the Camden Local Plan 2017 that are substantially different from earlier policies.

1.8 The updated elements of the guidance are consistent with the Camden Local Plan 2017. The Camden Local Plan 2017 has greater statutory weight than Housing CPG 2016, and where there is any apparent conflict between Housing CPG 2016 and the Local Plan, the Local Plan will prevail.

1.9 The Camden Planning Guidance covers a range of topics (such as design, sustainability, amenity and planning obligations) and so all of the sections should be read in conjunction, and within the context of the Camden Local Plan 2017.

What does this guidance cover?

1.10 This document provides specific guidance on:

- Affordable housing and housing in mixed use development – see also the standalone Interim Housing CPG
  (information on the split between the documents is provided in paragraph 1.12 of this guidance)

1.11 The Interim Housing CPG provides specific guidance on:

- other aspects of Affordable housing and housing in mixed use development
  (information on the split between the documents is provided in paragraph 1.12 of this guidance)
- Payment in lieu rates and planning obligations
- Residential development standards (including accessibility)
- Development involving a net loss of homes

The Council has also adopted a separate Student Housing CPG.

1.12 The guidance on “Affordable housing and housing in mixed use development” is divided into a number of subsections. Each subsection deals with a different question relating the requirements of Policies H2 and H4 of the Camden Local Plan 2017. They are split between this document and the standalone Interim Housing CPG as follows:

- what is affordable housing? - see the Interim Housing CPG
- which developments should include self-contained housing as part of a mix of uses? – see the Interim Housing CPG
- which developments should contribute to affordable housing? – see the Interim Housing CPG

- how should affordable housing be provided? – see the interim guidance
- how much affordable housing do we expect? – see the Interim Housing CPG
- how much housing and affordable housing do we expect as part of a mix of uses – see the Interim Housing CPG
- what types of affordable housing do we expect? – see the Interim Housing CPG
- how will the Council consider financial viability? – included in this document except for the subsection 'Transparency and confidential viability information', which is in the Interim Housing CPG
- can the market housing and affordable housing be provided off-site? – included in this document except for the subsections related to 'Payments in Lieu', which are in the Interim Housing CPG

1.13 Taken together, this document and the Interim Housing CPG highlight the Council's requirements and guidelines which support the Camden Local Plan 2017 policies:

- G1 – Delivery and location of growth
- H1 - Maximising housing supply
- H2 - Maximising the supply of self-contained housing from mixed use schemes
- H3 - Protecting existing homes
- H4 - Maximising the supply of affordable housing
- H5 - Protecting and improving affordable housing
- H6 – Housing choice and mix
- H7 - Large and small homes
- H8 - Housing for older people, homeless people and vulnerable people
- H9- Student housing
- H10 - Housing with shared facilities
- A1 - Managing the impact of development
- D1 - Design

2 Affordable housing and housing in mixed use development

This sub-section (Key Messages and paragraphs 2.1 to 2.5) has been replaced by Interim Housing CPG (Key Messages and paragraphs IH2.1 to IH2.5).

When does this guidance apply?

This sub-section (paragraphs 2.6 to 2.11) has been replaced by Interim Housing CPG (paragraphs IH2.6 to IH2.8).

What is affordable housing?

This sub-section (paragraphs 2.12 to 2.21) has been replaced by Interim Housing CPG (paragraphs IH2.9 to IH2.17).

Which developments should contribute to affordable housing?

This sub-section (paragraphs 2.22 to 2.31) has been replaced by Interim Housing CPG (paragraphs IH2.23 to 2.33).

How much affordable housing do we expect?

This sub-section (paragraphs 2.32 to 2.41) has been replaced by Interim Housing CPG (paragraphs IH2.37 to IH2.54).

What types of affordable housing do we expect?

This sub-section (paragraphs 2.42 to 2.59) has been replaced by Interim Housing CPG (paragraphs IH2.70 to IH2.89).

How is affordable housing funded?

This sub-section of CPG2 (paragraphs 2.60 to 2.64) has been deleted. A new section in Interim Housing CPG sets out how affordable housing should be provided (paragraphs IH2.34 to IH2.36).

How will the Council consider financial viability?

Policy background to financial viability appraisal

2.65 Our Core Strategy and Development Policies outline a number of Council aims and commitments relating to housing and mixed-use development that provide a framework for considering financial viability:

- housing is the priority land-use of the Local Development Framework
- we will seek to ***maximise the supply of additional housing***, and
- we will seek the ***maximum reasonable amount of affordable housing*** on each site, taking into account specific circumstances including the financial viability of the development
- to maximise overall housing supply, we will implement policies flexibly in response to economic uncertainty
- to ensure that housing development is viable, we may consider varying the proportion and/ or type of market and affordable housing in a development, or consider off-site solutions where necessary (see the sub-section '**Can the affordable housing be provided off-site?**')

2.66 Where a development provides an addition of 200 sq m or more (gross) of non-residential floorspace in the Central London Area or the larger town centres, applicants will need to demonstrate that the development is providing an appropriate contribution to the supply of housing. Where a development has capacity for 10 or more additional dwellings, applicants will need to demonstrate that the development is providing the maximum reasonable amount of affordable housing. In most cases, the applicant will be required to submit a financial viability appraisal to justify the proportions of housing and affordable housing proposed. Where viability will be a key factor influencing the content of development and the extent of planning obligations the Council strongly encourages discussion of viability at the pre-application stage – see paragraphs 2.71 to 2.74 below.

2.67 There is a limited amount of government guidance on how development viability should be considered in decision-taking, primarily paragraph 173 of the NPPF and National Planning Practice Guidance (NPPG) ID10 paragraphs 1 to 4 and 16 to 24. Paragraph 2 indicates that there is no single approach to viability assessment, and there is a range of sector led guidance available. The GLA has developed a methodology for financial viability appraisal in London in the form of an annually reviewed Development Control/ Development Appraisal Toolkit, and this is accompanied by detailed Guidance Notes. As well as providing information on the operation of the Toolkit, the Guidance Notes provide more general advice on viability appraisal, and will be used to inform the Council's approach.

What is financial viability appraisal?

2.68 The NPPF advises that a viable development should provide competitive returns to a willing landowner and a willing developer. A financial viability appraisal can be used to explore whether the NPPF test of viability is met by assessing the value of a development, subtracting an assessment of development costs and a competitive developer return, and establishing the remaining land value available to provide a return to the landowner.

2.69 A financial viability appraisal is a balance sheet for the development which enables all scheme costs and revenues to be taken fully into account. The Council expects viability appraisals to generate a 'residual land value'. The residual land value is the sum available to fund land purchase once all scheme revenues and costs have been taken into account, including provision of affordable housing, other planning obligations and the return to the developer but excluding any price already paid for land acquisition. Figure 4 sets out some of the typical inputs used in viability appraisal.

2.70 Schemes are considered to be viable where the residual land value (taking into account the provision of affordable housing and other planning obligations) matches or exceeds a benchmark land value for the site. The benchmark land value represents the competitive price at which a reasonable land owner would be willing to sell their land for development. This value will depend on the particular circumstances of the site (eg whether the land is vacant or occupied, the condition and marketability of any buildings) and the options available. The Council will seek to agree the benchmark value with the applicant, with the assistance of advice from any appointed independent verifier.

Figure 4. Typical inputs to financial viability appraisal

Cost inputs	**Revenue inputs**
demolition and build costs (supported by an elemental cost plan)	sales values
professional fees	payment by a housing association for transfer of affordable housing
marketing fees	public subsidy for affordable housing (if not included above)
development finance costs	capitalised rents and yield (for non-residential floorspace and any proposed private rented residential floorspace)
land finance and holding costs (for the period covering land acquisition/ scheme preparation, planning application and development)	capitalised ground rental income
planning obligations other than affordable housing	
developer's return (non-residential floorspace and market housing)	
contractor's return (affordable housing)	

Before a viability appraisal is submitted

2.71 We strongly advise applicants to discuss the general parameters of individual viability appraisals with us before they are prepared. Early discussions can ensure that the appraisal provides the evidence needed to assess the application and help to avoid delays after the application is submitted. Discussions should include the scope of viability appraisal, appropriate measures of land value, and the value of affordable housing. Submission of a draft viability appraisal may be appropriate.

2.72 Discussions may include whether viability appraisal of the proposed development should be accompanied by viability appraisal of alternative options such as:

- a development that meets our full expectations for housing and affordable housing contributions but is not viable
- a development that partly meets our expectations for housing and affordable housing contributions
- development for an alternative use that is lawful (having regard to the most recent lawful use and any applicable development orders), or has a current planning consent or has been agreed in principle as a site allocation in an adopted local plan or development plan document
- an alternative development falling below the relevant Development Policy thresholds (200 sq m in DP1 and 1,000 sq m in DP3)
- a development above the thresholds that makes no contribution to housing or affordable housing
- an off-site contribution to housing or affordable housing

2.73 At the pre-application stage developers are also strongly encouraged to discuss provision of affordable housing with Registered Providers and the Council's Housing Commissioning and Partnerships Team to inform discussion of likely rents, suitable intermediate housing models and capital values – see also paragraphs IH2.34 to IH2.36 of the Interim Housing CPG.

2.74 As indicated in our Development Policies document, in certain circumstances the Council will expect applicants to fund an independent verification of the financial viability appraisal. Where independent verification is likely to be required we will seek to discuss this at the pre-application stage, and we will seek a commitment from prospective applicants to provide the necessary funding. Independent verification will be required where the proportion or mix of housing/ affordable housing sought falls considerably short of the contributions anticipated by our Development Policies document. This independent verification will either be:

- commissioned directly by the Council in negotiation with the applicant; or
- commissioned by the applicant from an independent body subject the Council agreeing the body and the specifications in advance.

What form should the viability appraisal take?

2.75 Several viability appraisal models are available, and the Council does not insist that a particular model is used. However, the model must generate a residual land value on the basis of an agreed developer return (reflecting project scale, risk and loan requirements - see paragraph CPG22.79), and must be capable of being fully interrogated by the Council and any appointed independent verifier. The Council encourages the use of standard viability software. Where a bespoke model is produced for a particular scheme, the Council will expect a fully working electronic copy to be made available so that assumptions can be tested and varied by the Council and any appointed independent verifier. The Council will respect any intellectual copyright existing in a bespoke viability appraisal model and seek to agree with the applicant any arrangements needed to ensure copyright is protected.

2.76 The GLA publishes an Affordable Housing Development Control Toolkit (also known as the Three Dragons Toolkit), and most financial viability appraisals submitted to the Council are prepared using the Toolkit. The GLA Toolkit was designed specifically to assist negotiations between planning officers and developers. The Toolkit is reviewed annually.

Paragraphs 2.77 and 2.78 have been replaced by a new sub-section in Interim Housing CPG, "Transparency and confidential viability information", paragraphs IH2.90 to IH2.94.

IH2.90

The Camden Local Plan 2017 indicates that the Council supports transparency in decision making (see Local Plan paragraphs 3.64, 3.123 and 11.35). To that end we will:

- expect developers to provide information on viability through an open-book approach;
- seek the maximum reasonable disclosure of information in viability appraisals; and
- have regard to any elements that are commercially sensitive.

IH2.91

When an applicant submits viability information to the Council (including viability appraisals and all supporting material), the applicant should be aware that the Council favours transparency and public disclosure. There is a presumption in favour of disclosure, both built into the Environmental Information Regulations 2004 and the Council's own approach. Therefore the Council's standard policy is that all viability information will be released, whether proactively by routine publication or reactively ie in response to Environmental Information Regulations or Freedom of Information Act requests.

IH2.92

As noted there is a presumption in favour of disclosure therefore the Council will assess any case for confidentiality against that backdrop having regard to the adverse effect and the overriding public interest test in the Environmental Information Regulations and the Freedom of Information Act. Where, in the Council's opinion, the public interest falls on the side of releasing, the viability information will be published notwithstanding the applicant's case for any specific element of the viability information to remain confidential.

IH2.93

As indicated in Local Plan paragraphs 3.64 and 3.123, the Council may seek independent verification of a viability appraisal where the proposed contribution to housing or affordable housing falls significantly short of requirements in Policies H2 and H4. The Council will also favour transparency and public disclosure in the verification process. As part of the decision-making process the Council will therefore generally release a report of the independent verification of the financial viability appraisal.

IH2.94

Where a further viability appraisal is submitted to the Council after the determination of a planning application (for example, in association with a deferred contingent contribution to housing or affordable housing), the Council will also favour transparency and public disclosure.

Inputs to financial viability appraisal

2.79 Viability appraisal of development requires the input of a range of information including build costs, developer's return (profit) and sales values. We will expect the inputs to the viability appraisal to meet the following requirements:

- all inputs should be backed up by relevant evidence;
- build costs should be backed up by BCIS data, quotations for building works, an elemental cost plan and detailed specification of the intended fit out, accompanied by any plans and drawings that have been used in formulation of the cost plan but do not otherwise form part of the planning application;
- land finance and holding costs should generally relate to a period starting from when a proposed development scheme is prepared for pre-application discussion with the Council, and continuing until development has been completed – they should not generally include periods when the site has not been in the control of the applicant, periods when the site has been generating a net revenue for the applicant from an existing use, periods when the applicant is not actively seeking to bring the site forward for development (eg if a site is held as part of a land bank), or delays and costs arising from failed appeals;
- land finance and holding cost should relate to an agreed benchmark value for the site where this differs from the price paid, as the price paid may overestimate what can be achieved on the site (see paragraphs 2.83 to 2.90);
- residential sales values should be backed up by analysed evidence of values achieved for comparable new-build homes of similar specification that have recently been completed nearby;

- affordable housing values should be based on evidence including a breakdown of assumptions regarding rent, full market value, initial equity sale, any staircasing assumptions, and anticipated rent charged on unsold equity, accompanied by capitalisation yield and calculations used to derive capital values, and should be backed up wherever practical by offers from Registered Providers that have a nominations agreement with the Council (see also paragraph 2.73);
- the appraisal should express the developer return on the market housing and commercial elements of a scheme as a percentage of their gross development value (GDV) (the capital value of all revenue derived from these elements), although this may be accompanied by other measures of developer return, such as a percentage of costs or internal rate of return (IRR);
- a lower percentage return should be assumed on the affordable housing reflecting the low risk associated with sale to a Registered Provider – this may be incorporated at a blended rate with return on the market housing and commercial elements;
- the percentage developer return should reflect the scale and the risks associated with the project, and the current requirements of lenders – the applicant should justify the percentage selected; and
- cash flows should be modelled wherever appropriate.

2.80 Sensitivity testing should be carried out and submitted as part of each financial viability appraisal to show the potential for the residual value to change significantly as a consequence of relatively small changes in the inputs. In particular, the impact of changes in sales value and build costs should be tested given the rapid increases in Camden house prices in recent years and emerging concerns about increases in build costs. Where a viability appraisal is independently verified, this should include verification of any sensitivity testing provided by the applicant, and provide additional sensitivity testing where the submitted appraisal is deficient.

2.81 The GLA's Development Control Toolkit provides benchmark values for some viability appraisal inputs. The guidance notes accompanying the GLA Development Control Toolkit are available free and provide more detailed information on which costs can appropriately be included in a viability appraisal. The Council will closely scrutinise development costs that exceed benchmark figures. Where independent verification of the appraisal is required, this should include confirmation that the inputs used are appropriate and are in accordance with relevant evidence.

2.82 The Council will not expect viability appraisal to include land value or acquisition cost as a fixed input. Valuations and acquisition costs generally reflect an assumption by the valuer about what can be developed on the site, including an assumption about the proportions of non-residential development, market housing and affordable housing that will be acceptable. If land value forms a fixed input to the appraisal, the process becomes circular, and the proportions of market housing and affordable housing that are viable will match the initial assumption of the valuer. The Council's preferred measures of land value are given in Figure 5.

Figure 5. Preferred measures of Land Value

Residual Land Value	The value of a development once all scheme costs and revenues have been taken into account, including build costs, professional fees, developer's returns, provision of affordable housing and S106 contributions, but excluding site acquisition cost.
Existing Use Value (or EUV)	The value of a site in its lawful use. The Council will require evidence of the EUV, for example the value of rents paid by an existing occupier, or values achieved for sale of comparable sites continuing in the same use. The EUV should take account of revenue from the lawful use and any refurbishment or development costs that would be incurred to re-commence lawful use of a vacated site.
Existing Use Value plus a premium (or EUV plus)	The value of a site in its lawful use, as described above, but with an additional premium added as an incentive to the landowner to make the site available for development. Any premium is usually expressed as a percentage of EUV. The scale of any premium will depend on the particular circumstances of the site (eg whether the land is vacant or occupied, the condition and marketability of any buildings and the options available.

2.83 The residual land value should be an output of the viability appraisal. As indicated in paragraph 2.70, the Council will consider the development to be viable if the residual land value exceeds a benchmark land value that provides an incentive sufficient for the landowner to make the site available for development, taking into account the other options available. NPPG notes that these options may include the current use value or its value for a realistic alternative use that complies with planning policy

2.84 The Council's preferred measure of land value is existing use value, although other measures of land value may also be considered where they are appropriate. As stated in paragraph 2.70, we will seek to agree the benchmark value with the applicant, with the assistance of advice from any appointed independent verifier, and the starting point for these negotiations should be the Existing Use Value (EUV). In some circumstance (eg where a property is vacant and significant expenditure would be required to return it to use) a residual land value at or around EUV may be sufficient to incentivise development. In other circumstances (eg where a tenant has an unexpired lease and will need to relocate) a premium will be need to be added to the Existing Use Value (EUV plus) to incentivise release of the site.

2.85 The NPPG indicates that the incentive needed to bring forward the land will depend on the other options available. Consequently, the GLA Toolkit Guidance Notes state that the level of the premium will depend on site specific circumstances. Following from that, there is no normal or usual percentage to apply as a premium. The Guidance notes a number of appeals in which Existing Use Value has been accepted as the starting point for benchmark land value. In some appeal cases, no premium was held be required, but in others reasonable premiums were held to be 10% or 20% of EuV.

2.86 As a broad indication of how benchmark land values will be negotiated, the Council considers that reasonable premiums to apply in different circumstances could be as follows:

- 0-10% for old dilapidated buildings at the end of economic life;
- up to 20% for a property in a viable existing use; and
- up to 30% where development would need to fund relocation of an existing activity.

2.87 The NPPG also suggests that a realistic alternative use value (AUV) could be the basis for establishing a benchmark, and the Council may consider AUV alongside EUV where appropriate. An AUV is unlikely to be appropriate where it rests on assumptions about what would be granted planning consent, and requires costs and sales values or rents to be established for a hypothetical scheme that has not been worked-up in sufficient detail to be implemented. In accordance with the GLA Toolkit Guidance Notes, the Council therefore considers that the use of AUV as the basis for a benchmark is most likely to be appropriate where there is an alternative lawful use (having regard to the most recent lawful use and any applicable development orders), or there is already a planning consent in place with potential to be implemented, or there is a site allocation in a local plan (such as the Camden Site Allocations Document 2013) that gives sufficient detail for a realistic alternative proposal to be costed and valued.

2.88 The RICS guidance note "Financial Viability in Planning" suggests that the benchmark value should be based on the market value. There is no straightforward methodology for establishing market value, but the RICS guidance and NPPG both indicate the value should reflect development plan policies and all other planning considerations (notably planning obligations and any Community Infrastructure Levy charge). The RICS guidance also places a great deal of emphasis on the sale prices of comparable development sites, and notes that the 'risk-adjusted' value for a site without planning permission will be lower than the current market price for land with permission in place.

2.89 The RICS guidance notes that the actual price paid for a site may be used as evidence of market value where the site has recently been acquired/ disposed. However, the guidance warns that land values may change between the date of purchase and the viability appraisal, that developers may overpay due to an overestimate the acceptable development density or an underestimate the necessary planning obligations, and that site assembly may create a synergistic value greater than the components.

2.90 The Council considers that the market value and/ or the price paid for a site should be treated very cautiously in establishing a benchmark value as developers will compete for sites by assuming a reduced level of planning obligations – and particularly affordable housing (see also paragraph 2.82). However, the Council may consider market value and/ or price paid alongside Existing Market Value where market value and/ or price paid is supported by clear evidence in the form of a viability appraisal demonstrating that market value has been assessed on the basis of full compliance with planning policy. Transactional evidence may be relevant where:

- it relates to comparable sites nearby;
- full and relevant details of the transactions are known and publically verifiable; and
- there is evidence that the stated land values allow for viable development proposals that fully comply with planning policy.

2.91 The purpose of the premium referred to in Figure 5 and paragraphs 2.84 to 2.86 is to provide an incentive to a landowner to release the site for development (as a vendor). A separate incentive is provided to the developer (as a purchaser) to carry out the development through a return based on the development process itself, including the land purchase. Once a land transaction has taken place, it is not appropriate for the developer to apply a further premium to the market value or the price paid.

2.92 An alternative use value (AUV) cannot provide a meaningful benchmark value unless it represents a financially viable development that would be an option for a landowner to consider. To be financially viable, the scheme would by definition provide competitive returns to a willing landowner and a willing developer. Consequently it should not be necessary for a further premium to be applied to an alternative use value.

Deferred affordable housing contributions

2.93 London Plan policy 3.12 and Camden Development Policy DP3 indicate that the Council should seek the maximum reasonable amount of affordable housing in negotiations relating to residential and mixed-use sites. Many factors can have a significant impact on the maximum viable contribution to affordable housing, including changes to sales values, changes to build costs, changed specifications for materials and finishes and changes to the cost of finance. These factors can change quickly, and changes of a few percentage points can have a significant impact on the viability of a development. For example, house prices have risen sharply each year in Camden since the beginning of 2010. In the year to September 2010, prices had risen by 16.3%, with another 5.2% increase by September 2011, 7.2% higher by September 2012, 11.9% higher by September 2013 and 20.4% higher by September 2014 (source: Land Registry). Significant changes to viability are likely between the grant of planning permission and commencement, and between commencement and completion of the development.

2.94 The Council will therefore seek to negotiate deferred affordable housing contributions (similar to 'contingent obligations' referred to in London Plan policy 3.12) for developments where the provision of housing/ affordable housing falls significantly short of targets in Development Policies DP1 and DP3 due to financial viability, and there is a prospect of viability improving prior to completion. The deferred contribution is not a fixed amount, but is capped at the shortfall between the amount of additional housing/ affordable housing proposed and the Council's policy targets. The actual contribution is determined by a further viability appraisal undertaken on an open book basis at an agreed point after approval of the development but before the scheme is fully occupied.

2.95 A deferred contribution is only triggered if the further financial viability appraisal shows that there has been sufficient growth in viability. If the residual value of the development exceeds an agreed benchmark site value, then the excess is split equally between the developer and the Council unless the Council's share reaches the cap. Where the cap is reached, the contribution matches the shortfall between housing/ affordable housing provision and the Council's policy targets, and any further growth in the residual value relative to the benchmark site value will pass to the developer in full.

2.96 The Council has regard to the arrangements for 'contingent obligations' suggested by the London Plan and the Mayor’s SPG. In the particular circumstances of Camden, the Council takes the following approach:

- re-appraisal of viability is expected after implementation when the development is substantially complete; and
- re-appraisal of viability and deferred affordable housing contributions are sought as part of planning obligations for developments that proceed as a single phase, as well as for phased schemes.

2.97 Particular Camden circumstances justifying our approach are set below:

- Given the pace of recent house price rises in Camden (20.4% in the year up to Sept 2014), a re-appraisal of viability immediately prior to commencement would significantly underestimate the ability of the development to contribute to affordable housing, as the sales values for market housing will have increased considerably by the time of completion.
- The pace of Camden house price rises means that even a short-term permissions (such as commencement within 12 months) and a requirement for review only if completion fails to take place within a modest period (such as 18 months from commencement) would allow a scheme to make a significantly smaller contribution to affordable housing than could be supported by the sales values finally achieved.
- Given the type and scale of housing development in Camden, most market and affordable housing is delivered by schemes that proceed as a single phase. The pace of Camden house price rises means that if they are not subject to viability re-appraisal, such schemes will

make a significantly smaller contribution to affordable housing than could be supported by the sales values finally achieved.

- In a single phase scheme it is difficult to change the mix of market and affordable housing after implementation, so for single phase schemes in Camden deferred contributions will generally take the form of a payment-in-lieu.
- Many of Camden's development projects take advantage of the particular qualities of the borough to create unique homes at the higher end of the market – examples include developments in historic areas and developments creating views over Central London or Hampstead Heath. Given the uniqueness of such homes, it is exceedingly difficult to identify comparable developments or pertinent values achieved elsewhere, and consequently there is considerable uncertainty over the sales values likely to be achieved. Undertaking viability re-appraisal as close to the end of the development process as possible removes uncertainty as it allows recorded sales values to be used rather than predictions.
- Many of Camden's development projects (particularly those aimed at the higher end of the market) are designed to very high specifications in terms of materials, finishes and decor. High specifications give rise to high build costs that are difficult to confirm by reference to published sources such as BCIS, and are often engineered downwards during implementation. Undertaking viability re-appraisal as close to the end of the development process as possible removes uncertainty as it allows recorded build costs to be used rather than estimates.
- There are concerns that build costs in Camden could rise rapidly in coming years due to the unusually large number of construction projects taking place in Central London, and this uncertainty can also be removed by undertaking a later re-appraisal using recorded building costs.
- The Council's approach has been agreed as a planning obligation for more than ten developments in Camden. At the end of 2014, four of these had been completed, and had paid the full deferred affordable housing contribution, providing more than £13 million to fund additional affordable housing.

2.98 The Council will generally seek to secure the following arrangements for deferred affordable housing contributions in a S106 agreement:

- the deferred affordable housing contribution will take the form of a payment in-lieu to the Council's affordable housing fund
- the maximum contribution will be a payment-in-lieu based on the shortfall against housing/ affordable housing targets, calculated in accordance with Section 3 of the Interim Housing CPG
- full details of the agreed financial viability appraisal which guided determination of the application will be recorded

- the benchmark value for the site agreed in that appraisal (in accordance with paragraphs 2.70 and 2.83 to 2.92 of this guidance) will be recorded
- at a specific point during the development process we will require a further financial viability appraisal produced on an open book basis – generally this will be either at practical completion, or when a specified number of homes in the development have been sold but there are sufficient unsold homes for sales proceeds to fund the deferred contribution
- the developer will fund an independent verification of the further financial viability appraisal (as indicated in paragraph 2.74 of this guidance)
- following independent verification, the agreed benchmark value will be subtracted from the residual value given in the further financial viability assessment – this calculation will give a negative value or zero (a deficit) or a positive value (a surplus)
- if the calculation shows a deficit, no deferred affordable housing contribution will be required
- if the calculation shows a surplus of less than twice the maximum contribution, then the deferred affordable housing contribution will be half of the surplus
- if the calculation shows a surplus that is twice the maximum contribution or more, then the deferred affordable housing contribution will be capped at the maximum
- following independent verification of the further financial viability appraisal, the Council will give formal notice of the sum required, and payment shall be made within 28 days

2.99 Different arrangements may be appropriate in some cases, depending on character and scale of the development. For example:

- Where a phased development is proposed, and improvements in viability could potentially provide additional affordable housing within the development, it may be appropriate to undertake further financial viability assessment earlier in the process.
- In the case of large developments with a long site preparation and construction period, it may be appropriate to undertake more than one further financial viability assessment.
- It may occasionally be necessary to vary the formula for calculating surplus or deficit to reflect the particular viability appraisal model being used, but the Council will expect to agree a formula that reflects the principle set out in paragraph 2.95.
- An adapted mechanism will be necessary where a development will be managed for private rent by an institution.
- Using a growth model to assess viability may be an appropriate alternative to a deferred contribution in some circumstances where changes in the values and costs are predictable and the growth

model will maximise the affordable housing offer at the time an application is determined.

2.100 The further financial viability appraisal should comply with all the requirements for financial viability appraisal set out in paragraphs 2.65 to 2.92 this guidance, including the modelling of cash flows. Where inputs such as build costs and sales values are based on estimates rather than agreed contracts and transactions on homes within the scheme, we will expect appraisals to use appropriate projections with reference to trends in the requisite segment of the housing market and to sources such as BCIS indices. The Council will favour transparency and public disclosure of the further financial appraisal in accordance with the subsection of our Interim Housing CPG **'Transparency and confidential viability information'**.

Can the market housing and affordable housing be provided off-site?

2.101 Our Core Strategy and Development Policies promote mixed-use development and mixed and inclusive communities in line with the Government's NPPF. Development Policy DP1 indicates that housing contributions should normally be provided on site, while Development Policy DP3 indicates that affordable housing contributions should normally be made on site. Both policies do provide for off-site contributions, but only in a limited set of circumstances. The Council will only accept off-site contributions where provision cannot practically be achieved on-site in terms of meeting the criteria set out in the two Development Policies and accompanying paragraphs. The Council will only accept contributions in the form of payments-in-lieu in exceptional circumstances.

2.102 The Council will take the project management and implementation costs of off-site contributions into account and will expect there to be a neutral impact on Council expenditure and resources. Obligations may therefore need to include a payment to cover the additional costs of delivery of off-site contributions where such costs fall to the Council.

2.103 When considering the acceptability of off-site contributions and payments-in-lieu, we will have close regard to all relevant criteria in Development Policies DP1 and DP3 alongside accompanying paragraphs 1.15 to 1.24 and 3.13 to 3.30. We will also have regard to Core Strategy CS9 and the Council's support for residential communities in Central London, and ensure that off-site contributions do not undermine the benefits of mixed-use areas (such as those identified in paragraph 1.7 of our Development Policies document) or conflict with the creation of mixed and inclusive communities. These considerations apply to all sites regardless of size.

2.104 The Council will particularly expect contributions to be made on-site where the development is larger. Where mixed-use policy DP1 applies, we will expect on-site housing contributions where 1,000 sq m (gross) or more of additional floorspace is proposed. Where affordable housing policy DP3 applies, we will expect on-site affordable housing contributions where 3,500 sq m (gross) or more of additional floorspace is proposed. It may not always be practical to include affordable housing within a market development (for example in smaller developments), however prior to considering an off-site contribution the Council will expect developers of all schemes to demonstrate that, on-site provision is not practical having regard to all the considerations referred to in paragraph 2.103 of this guidance.

2.105 The NPPF indicates that affordable housing provision should be made on-site unless an off-site solution is robustly justified. To meet this objective, the Council expects all options for on-site affordable housing to be fully explored, even where small developments are involved. Before they submit an application, we will expect applicants to fully consider different arrangements of the site and the scheme to secure the best possible prospect of achieving an on-site affordable housing contribution. In particular, applicants will be expected to show that the following options cannot practically deliver an on-site contribution before off-site solutions will be considered:

- where the site characteristics provide potential for a variety of scheme design and layouts, designing the scheme to provide a separate entrance (or entrances) and stair/ lift core(s)for affordable homes
- where it is only possible to provide a single entrance lobby and stair/ lift core, designing the communal spaces to ensure that service and management charges are sufficiently low for affordable housing occupiers and providers (see also paragraph IH2.71 in our Interim Housing CPG)
- approaching a range of housing associations and other providers (including the Council) to seek bids for acquisition of on-site affordable homes
- offering flexibility to housing associations and other providers to deliver different types of affordable housing (eg intermediate housing)
- where providing the full affordable housing contribution on-site is not financially viable, providing a reduced affordable housing floorspace on-site
- where an on-site solution is not financially viable, seeking a top-up payment from the Council's affordable housing fund.

Making the contribution on another site

2.106 The following terms are used in this guidance to shorten explanations of off-site arrangements:

- **application site** – the site of the proposed development that generates a policy requirement for housing under policy DP1 or affordable housing under policy DP3;
- **delivery site(s)** – one or more proposed development sites elsewhere intended to meet policy requirements off-site.

2.107 The paragraphs accompanying policies DP1 and DP3 indicate that where off-site provision is made, the overall percentage of housing/ affordable housing and non-residential uses will be considered across the aggregate floorspace on all related development sites. In other words, the percentage requirement for an off-site contribution is calculated as a proportion of the floorspace at the application site and the floorspace at the delivery site(s) added together, rather than the application site alone. In the case of policy DP1, where there is a single target of 50% for negotiation of on-site contributions, off-site contributions should normally involve matching the non-residential floorspace increase at the application site with an equivalent increase in residential floorspace at the delivery site. In the case of policy DP3, where the sliding scale applies a formula is used to calculate off-site contributions. Figure 6 and Figure 7 below show how the off-site policy requirement can be calculated.

2.108 Calculating the percentage across floorspace on all related development sites helps to ensure that the policies do not provide an unintended incentive towards off-site contributions. Off-site contributions allow more non-residential floorspace (or market housing floorspace) to be developed at the application site. Considering the sites together ensures that this gain in non-residential floorspace (or market housing) also leads to a proportionate increase in residential floorspace (or affordable housing floorspace) at the delivery site.

2.109 Calculating the proportion across all related development sites also enables land swaps. A land swap enables a developer to offset additional non-residential floorspace (or market housing) at the application site by reducing non-residential floorspace (or market housing) elsewhere.

- Under DP1, redeveloping/ converting non-residential floorspace for off-site housing can be used to offset the addition of non-residential floorspace at the application site;
- Under DP3, redeveloping/ converting market housing floorspace for off-site affordable housing can be used to offset the addition of market housing at application site.

2.110 A calculation of this type under policy DP1 is included in paragraph 1.16 of our Development Policies document and as Example 2 in Figure 6.

Figure 6. Calculating off-site contributions under policy DP1

Additional floorspace proposed	Generally under 1,000 sq m for off-site housing contribution to be considered
On-site housing target	50% of additional floorspace on the application site
Off-site housing target	50% of total additional floorspace (application site plus delivery site)
Housing floorspace required off-site	Should match total addition to non-residential floorspace across the related sites

Example 1

Additional floorspace proposed (application site)	= 800 sq m
Housing floorspace required if on-site (application site)	= 400 sq m
Remaining non-residential floorspace addition on-site (application site)	= 400 sq m
Non-residential floorspace addition if principle of off-site housing is agreed (delivery site, with no conversion of non-residential floorspace to housing elsewhere)	= 800 sq m
Housing floorspace required off-site (with no conversion of non-residential floorspace)	= 800 sq m
Ratio of non-residential floorspace to housing floorspace off-site	800:800 = 50%:50%

Example 2

Non-residential addition on-site (application site, where principle of off-site housing is agreed)	= 800 sq m
Housing floorspace required off-site (delivery site, with no conversion of non-residential floorspace)	= 800 sq m
Non-residential loss off-site through conversion to housing (delivery site)	= minus 400 sq m through conversion to housing
Net non-residential addition (all sites)	= 400 sq m
Net housing floorspace required off-site (by conversion of non-residential floorspace)	= 400 sq m
Ratio of non-residential floorspace to housing floorspace off-site	400:400 = 50%:50%

Figure 7. Calculating off-site contributions under policy DP3

Additional market housing floorspace proposed - '**a**'	Generally under 3,500 sq m for off-site affordable housing contribution to be considered
On-site affordable housing target -'**b**' (percentage)	Varies according to the sliding scale for sites with capacity for less than 50 homes
Off-site affordable housing target (proportion)	= b / (100 - b)
Affordable housing required off-site (secondary delivery site) - '**c**' (sq m)	**c = a x b / (100 – b)**

Example

Additional market housing floorspace proposed	= 2,500 sq m
Target for on-site affordable housing	= 25% x 2,500 sq m = 625 sq m
Off-site affordable housing target	= 25 / (100 – 25) = 33.3%
Target for off-site affordable housing contribution	= 2,500 sq m x 33.3% = 833.3 sq m
Ratio of market housing floorspace to affordable housing floorspace off-site	2,500:833.3 = 75%:25%

2.111 Development Policies DP1 and DP3 indicate that we will take into account the economics and financial viability of development when considering off-site contributions as well as on-site contributions. The arrangements in paragraphs 2.65 to 2.92 of this guidance will apply, and applicants will need to submit financial viability appraisals to demonstrate that the application and delivery sites are providing the maximum reasonable contributions to housing (under DP1) or affordable housing (under DP3). Applicants will be required to fund an independent verification of the financial viability appraisal where the proportion or mix of housing/ affordable housing sought falls considerably short of the contributions anticipated by our Development Policies document and this guidance.

2.112 As indicated in paragraph 2.101 of this guidance, contributions to housing/ affordable housing should normally be made on site. Mechanisms guiding the delivery of housing and affordable housing should not create a financial incentive for the developer to make off-site contributions. Where the level of off-site contribution is below the level anticipated by our Development Policies document and this guidance, we will seek to ensure the additional value created by the development is broadly the same with an off-site contribution as it would be with an on-site contribution. In addition to the financial viability appraisal requirements of paragraphs 2.65 to 2.92, the Council may therefore seek a comparison between the financial viability of on-site and off-site solutions (taking into account the existing use value and residual development value of the application site and delivery site).

Residential land-use credits and affordable housing credits

2.113 Within Camden's Central London area there are a number of property investors and developers that own a significant number of sites. We may negotiate arrangements with such landowners to take advantage of commercial development opportunities, market housing opportunities and affordable housing opportunities on separate sites provided this does not compromise our objectives for mixed-use and mixed and balanced communities. In particular, owners of several sites may be able to bring forward developments of housing or affordable housing in advance of any policy requirement from Development Policies DP1 or DP3. In effect, the 'delivery site(s)' is/ are developed before the 'application site' has been identified (see paragraph 2.106 of this guidance for an explanation of these terms). The Council may agree to 'bank' this floorspace in the form of credits that can be accepted against the policy requirements from future development. When an 'application site' generates a housing/ affordable housing requirement, the Council will have discretion to agree to use of the 'banked' credits to offset part or all of the policy requirement.

2.114 The credits mechanism has potential to deliver additional housing and affordable housing earlier in the financial cycle by creating incentives for multiple site-owners to:

- seek opportunities for housing/ affordable housing development in advance during periods when commercial markets are poor rather than seeking to negotiate payments in lieu when commercial development prospects improve;
- bring forward housing/ affordable housing development that they would otherwise hold back until commercial development prospects improve;
- take up opportunities to convert lower value commercial properties to housing when leases expire;
- provide affordable housing when the market for private housing would be unable to support it.

2.115 The mechanism can also help developers to deliver commercial floorspace or market housing more quickly when demand is strongest.

2.116 There are two types of credits that could be considered in this way:

- **residential land-use credits** – created where housing is provided but is not required by policy – these can be used where market housing is needed to offset additional commercial development under Development Policy DP1; and
- **affordable housing credits** – created where affordable housing is provided in place of market housing but is not required by policy –

these can be used where affordable housing is needed to offset additional market housing development under Development Policy DP3.

2.117 The two types of credit could potentially be created by a single development at the same time if affordable housing is provided but there is no policy requirement for any type of housing. However, each type of credit can only be used once and only against a single policy requirement.

2.118 Residential land-use credits and affordable housing credits are types of off-site contributions, and will be governed by the policy considerations set out in paragraph 2.101 to 2.105 of this guidance. Paragraphs 1.15 and 3.15 of our Development Policies document indicate that off-site contributions should be made in the same area as the application site. In the case of residential land-use and affordable housing credits, the Council will only agree to bank credits from development in the Central London area, and will only allow credits to be used to offset requirements on another site in Central London. Credits should be used in reasonable proximity to the delivery site. In the Central London context, in most cases the Council will require credits to be used within 500 metres of the delivery site, taking into account any demonstrable benefits from allowing provision on a more distant site. The Council will not agree to credit arrangements that would erode the mixed-use character of Central London or add to concentrations of affordable housing at the fringes of Central London.

2.119 The Council will use two mechanisms to ensure that residential land-use credits and affordable housing credits serve to increase the overall delivery of housing or affordable housing.

- The Council will not agree to the formation of credits from development of market housing or affordable housing where this development would clearly have arisen regardless of any future DP1/ DP3 requirements on other sites.
- Where we agree to the use of credits to off-set a housing requirement from additional non-residential space or an affordable housing requirement from additional market housing, the credit required will be equivalent in floorspace terms to the overall increase in non-residential floorspace – or market housing floorspace – across the application site and the delivery site(s) together, in accordance with the considerations set out in paragraphs 2.106 to 2.110 of this guidance.

2.120 The Council may therefore agree to acknowledge development in Central London as creating residential land-use credits and/ or affordable housing credits subject to the following constraints:

- the creation of credits should form part of the resolution to grant permission for housing/ affordable housing on the 'delivery site'
- the Council will only agree the formation of credits where this will serve to increase the overall delivery of housing or affordable housing

- the scale and type of credits created should be agreed at the time of the resolution on the 'delivery site' (floorspace of residential land-use credits and floorspace of affordable housing credits)
- at the request of the credit-holder, the Council may consider credits agreed by resolution as a material consideration offsetting policy requirements at a future 'application site' in Central London
- the Council will only accept the existence of credits as a material consideration where an off-site contribution would comply with Development Policies DP1, DP3 and all other relevant policies and material considerations
- the Council will only accept the existence of credits as a material consideration for sites in Central London
- the Council will require the credits to be used in reasonable proximity to the 'delivery site', and in most cases within 500 metres
- the Council will consider the scale of credits required to off-set a policy requirement in terms of the overall increase in non-residential floorspace increase or market housing floorspace across the application and delivery site(s) together
- the existence of credits will not place any obligation on the Council in terms of its decision-making in relation to a future 'application site'
- the period over which the credit can be applied to a future 'application site' should also be agreed at the time of the resolution on the 'delivery site', usually until 10 years from the date of the resolution
- the credits will generally be specific to an applicant, developer or landowner, and will not be regarded as transferable
- the Council will seek a S106 legal agreement to ensure that where development at an application site is justified by the existence of credits, the development cannot be occupied until the housing/ affordable housing that creates the credits is completed and available for occupation
- the creation and 'cashing-in' of credits and the implementation of development at 'delivery sites' and 'application sites' will be closely monitored and regularly reported.

Payments in lieu

This sub-section (paragraphs 2.121 to 2.124) has been replaced by Interim Housing CPG (paragraphs IH2.99 to IH2.129)

Background

- The National Planning Policy Framework (NPPF) provides a definition of affordable housing and sets the framework which local councils use to secure affordable housing from market housing development.
- The London Plan and the Mayor's Housing SPG give guidance on the income groups who are eligible for intermediate housing, and also cap the cost of intermediate housing on the basis of income.
- The London Plan Annual Monitoring Report is used to review annually which income groups are eligible for intermediate housing.

Securing works / conditions / S106

2.125 Provision of housing required under Development Policy DP1 will generally be secured by a planning obligation under S106 of the Town and Country Planning Act 1990. The precise terms of the S106 agreement will vary between developments to reflect the nature and financial viability of the development. In most cases S106 terms will include:

- identifying all homes in the development
- preventing the occupation of non-residential floorspace until the housing is completed and available for occupation, including non-residential development justified by a residential land-use credit agreed in association with a housing development on another site.

2.126 Provision of affordable housing required under Development Policy DP3 will always be secured through a S106 planning obligation. The precise terms of the S106 agreement will vary between developments to reflect the nature and financial viability of the development. In most cases, S106 terms will include:

- identifying all affordable homes in the development
- specifying which homes will be social rented housing, which homes will be affordable rented housing and which homes will be intermediate housing
- defining social rented housing in terms of the Government's national rent regime
- defining intermediate housing[1] in terms of the income groups and the ratio of housing cost to income contained in the London Plan, the Mayor's Housing SPG and the London Plan Annual Monitoring Report
- defining affordable rented housing in terms of relevant guidance including the NPPF. the London Plan, the Mayor's Housing SPG, and

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[1] we will also take into account the Council's Intermediate Housing Strategy, adopted on 6 April 2016

in relation to Local Housing Allowance caps and lower quartile market rents available locally and across the borough

- identifying social rented, affordable rented and intermediate wheelchair homes
- arrangements for the development, fitting out and transfer of the affordable housing to an affordable housing provider as approved by the Council
- arrangements for the fitting out/ adaptation of wheelchair homes for occupation by a household containing one or more people who are wheelchair users
- preventing the occupation of some or all market housing until the affordable housing has been completed, fitted out and transferred to an affordable housing provider - including market housing justified by an affordable housing credit agreed in association with affordable housing development on another site
- securing availability of the affordable housing to future eligible occupiers, or securing recycling of public subsidy if the affordable housing is sold.

2.127 Other S106 terms that may be required in connection with DP1 and DP3 include:

- where off-site delivery will be at a known site or sites, linking the developments together
- where a site is not identified for delivery at the outset, specifying the floorspace, nature of housing required and general location
- where a site is not identified for delivery at the outset, arrangements for identifying one or more delivery sites prior to the implementation of the development
- making a payment-in-lieu of housing/ affordable housing prior to implementation or occupation of the development
- making a payment to cover the additional costs of delivery of off-site contributions where such costs fall to the Council
- arrangements for a deferred affordable housing contribution if provision of housing/ affordable housing falls significantly short of targets due to financial viability, and there is a prospect of viability improving prior to completion
- specifying the type of intermediate housing – e.g. key-worker, intermediate rent, shared ownership
- controls on the rents of intermediate rented housing and affordable rented housing
- limiting the minimum percentage share available in shared ownership homes
- limiting the rent charged on the unsold proportion of shared ownership homes.

Resources / contacts

This sub-section (Contacts and Resources tables) has been replaced by equivalent tables in the Interim Housing CPG after paragraph IH2.129.