

Cllr Mark Williams
Cabinet Member for Regeneration and New Homes
Brunswick Ward

Cabinet Office
Southwark Council
P.O Box 64529
London SE1P 5LX

mark.williams@southwark.gov.uk

Tel: 0207 525 7730

Date: 04 July 2016

Ref: MW-558/rpc

Jerry Flynn
35% Campaign
c/o [REDACTED]

London
SE10 [REDACTED]

Dear Mr Flynn

Our ref: 583183 (Corporate Complaint – ‘Failure of the Council to properly monitor Section 106 requirements for social rented housing’)

Thank you for coming to meet me to discuss the concerns raised in your letter dated 17 May 2016 regarding the implementation of Southwark's affordable housing planning policies and the monitoring of affordable housing secured through Section 106 agreements.

The Council is committed to maximising the supply of new social rented homes in Southwark and our adopted planning policy is to secure social rented homes in favour of Affordable Rented homes¹ on all new development proposals which trigger an affordable housing requirement. Affordable Rented homes may be accepted in place of social rented homes in exceptional circumstances where an applicant demonstrates a scheme cannot viably deliver social rented homes. Where Affordable Rented homes are accepted by the Council we require the rent to be capped at the Local Housing Allowance level for that type of property and we expect Affordable Rent to be limited to smaller properties such as one and two bedroom homes².

Where a major development is granted planning subject to the provision of affordable housing, the type of affordable housing of each unit, i.e. social rent or Affordable Rent, is specified in a Section 106 (S106) agreement. Affordable housing providers are bound by the terms of S106 agreements and it would be a breach of the agreement to rent the property under different terms. The Council takes breaches of S106 agreements extremely seriously and will take action against parties found to be in breach.

¹ Affordable Rent and social rent are defined in the National Planning Policy Framework (NPPF)

² The Council's approach to Affordable Rented homes is set out in the Planning Committee Report dated 20 December 2011

Your concerns address two issues. Firstly, whether S106 agreements reflect the affordable housing mix agreed by planning committee. Secondly, whether there have been breaches of S106 agreements in respect of affordable housing tenures. Regarding the first issue we have reviewed the planning committee report and associated S106 agreement for all schemes included in your appended schedule of developments. We are confident that in each case the affordable housing mix identified in the planning committee report has been faithfully reflected in the associated S106 agreement and there are no instances where the tenure has been reported as social rent in the planning committee report and secured as Affordable Rent in the S106 agreement.

This notwithstanding, your concerns were valid and understandable. A large number of the schemes pre-date Affordable Rent being introduced as an affordable housing tenure. Affordable Rent was first introduced through Planning Policy Statement 3: Affordable Housing (PPS3) in June 2011. All schemes which went to planning committee prior to this date therefore refer to affordable rented homes or social rented homes interchangeably. However, the definition of the affordable rented element in each S106 agreement is clear the rent levels will be determined under the criteria for social rent as determined by the Homes and Communities Agency (HCA).

Following the introduction of Affordable Rent a transition period followed where the use of the term 'affordable rent' was used descriptively to refer to social rented homes as had been the case prior to the introduction of Affordable Rent. It is therefore reasonable to be concerned there may be ambiguity in the S106 and a registered provider may have let social rented homes under the terms of Affordable Rent. However, following the introduction of Affordable Rent all S106 agreements correctly define the tenure as being either social rent or Affordable Rent.

Your letter noted some schemes have been recorded as Affordable Rent in the GLA Affordable Housing dataset where the S106 clearly required the units to be social rent. The Council is not responsible for compiling this dataset but we can confirm the units in question are secured as social rent. The proportion of market rent that these social rent units will be let at is a statement of fact, true at the point of reporting. It does not establish a fixed relationship between market rent and the rental charge on those properties secured as social rent by S106 Agreement. Any subsequent movements in the rental charge will be determined in accordance with the HCA guidance for social rent rather than movements in market rent within the local area.

I have appended your schedule of sites with Council officer comments. This confirms that each S106 agreement reflects the decision of planning committee and that in each case the S106 agreement unambiguously identifies the units as being either social rented or Affordable Rented³.

Regarding your second concern we have not identified any suspected S106 breaches in respect of the tenure of affordable housing being rented by registered providers. However, I can confirm that the Council will be systematically monitoring all affordable homes secured by S106 to ensure they are rented under the correct terms. We will also be reviewing our standard S106 agreement template to ensure the tenure of

³ With the exception of "The Exchange" Bermondsey Spa which was the subject of a Question to the Leader in 2015 which is detailed below.

newly secured affordable housing is effectively monitored at the outset and we will be recruiting an officer to oversee this project.

As discussed when we met we are aware of up to four breaches of s106 agreements where we believe units secured as shared ownership homes have been effectively sold as private units. We sought, and gained, a High Court Injunction on the sale of these units and we have a date for the High Court Case for these units which will be next summer. We take such breaches extremely seriously and will do everything we can to secure those units in line with the permission for which they were granted. We have notified the Homes and Communities Agency as we believe the registered provider (the same one for all four suspected breaches) has acted in a thoroughly disreputable manner.

If you have any further questions on any sites in Southwark please do let me know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Williams', with a long horizontal flourish extending to the right.

Cllr Mark Williams
Cabinet Member for Regeneration and New Homes

| Application Reference | Date of Section 106 Agreement | Address / scheme name | 35% Campaign Comments | Housing Provider (where known) | Details of Planning Committee Report | Details of Original S106 Agreement | Variations to S106 Agreement | Council Response |
|-----------------------|-------------------------------|------------------------------|--|--------------------------------|---|---|---|---|
| 11/AP/0140 | 04/04/2011 | 32 Crosby Row SE1 3PT | <i>Southwark's planning committee report (11/AP/0140) approved 5 social rent units, but the GLA dataset shows that these have been delivered as affordable rent at between 40% and 57% of market rent.</i> | Family Mosaic | N/A (Pre-dates Affordable Rent) | S106 Agreement states x5 social rent units. | None relating to social rent units. Planning application 12/AP/2926 converts the shared ownership unit to private with £90,000 compensation. | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |
| 11/AP/0138 | 21/04/2011 | 430 Old Kent Road SE1 5AG | <i>Southwark's planning committee report (11/AP/0138) approved 22 social rent units, but the GLA dataset shows that these have been delivered at affordable rents of between 34% and 49% market rent.</i> | Family Mosaic | N/A (Pre-dates Affordable Rent) | S106 Agreement states x4 social rent units. | 11-AP-4338 application changes 18 private units of scheme to social rent (as part of Neo Bankside's off-site contribution). 24 units also converted from private to intermediate as part of the same application. | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |
| 11/AP/3251 | 22/12/2011 | Bermonds ey Spa regeneration | <i>Southwark's planning committee report (11/AP/3251) approved 8 social</i> | Leicester Housing Association | Planning Committee Report states 8 social rent units. | S106 Agreement states social rent units. | N/A | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>rent units, but the GLA dataset shows that these have been delivered at affordable rents of between 39% and 52%.</i> | | | | | |
| 06/AP/0995 | 18/04/2007 | INITIAL: 149 RYE LANE INTEGRATED: 143-149 RYE LANE & 1-15 BOURNEMOUTH ROAD LONDON, SE15 4ST (Permission linked to 11/AP/0914) | <i>Southwark's planning committee report (06/AP/0995) approved 7 social rent units, but the GLA dataset shows that these have been delivered as affordable rents of between 74% and 78% market rent.</i> | London & Quadrant Group | N/A (Pre-dates Affordable Rent) | N/A (Pre-dates Affordable Rent) | 11/AP/0914 increases the number units across the site by 1, to give a total of 62 units. Affordable housing is not considered in the officer report dated 28/06/2011. S106 for 11/AP/0914 has the affordable units on site increase to 23. | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |

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| 13/AP/0561 | 21/06/2013 | Crown St Depot | <i>Southwark's planning committee report promised that 7 of these 69 new homes would be social rent, but the GLA affordable housing outturn data shows these as affordable rent at 40% market rent. Paragraph 74 of the planning committee report also asserted that the developer would refurbish and extend the neighbouring council owned Bethwyn Road Playgroup Centre. However, these refurbishment and extension works have not been undertaken.</i> | Leicester Housing Association | Planning Committee Report states the proposal will provide 7 social rent units, 10 Affordable Rent units and 24 shared ownership units. | S106 specifies 7 social rent units as per National Rent Regime. | N/A | <ul style="list-style-type: none"> • S106 requires 7 social rent homes. |

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| 12/AP/1066 | 31/12/2012 | 45-48 Lancaster St | <i>Southwark's planning committee report (12/AP/1066) approved 19 social rent habitable rooms, but the GLA dataset shows that these have been delivered as affordable rent of between 30% and 59% market rent.</i> | A2Dominion Housing Association | Planning Committee Report states 4 social rent units. | S106 Agreement states 4 social rent units. Definition of "social rent units" makes reference to targets for affordable rented housing set by the Housing Corporation and successor bodies" as well as Council's Affordable Housing SPD and London Plan requirements and Mayor's Housing SPG. | S73 application (15/AP/0807) and subsequent Deed of Variation approved for split of 1 three bed shared ownership flat to 2 one bed flats (i.e. an increase in overall affordable housing by number of units). | <ul style="list-style-type: none"> • S106 requires 4 social rent homes. |
| 12/AP/1455 | 28/09/2012 | Stead St early housing development | <i>This was supposed to be a replacement housing development for decanted residents of the Heygate estate. The Officer Report describes a policy compliant application with the requisite quota of social rent units. However, the section 106 agreement describes these as 'affordable rent' and these are also listed in the GLA outturn data as affordable rent.</i> | Guinness Trust | Planning Committee Report states 84 social rent units | S106 Agreement states 84 social rent units | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| 12/AP/2332 | 19/02/2013 | Aylesbury estate regeneration Site 7 | <i>The planning committee report said that this application for 147 new homes was policy compliant and would provide a policy compliant number of social rent homes. However, the section 106 agreement defines social rent in affordable rented terms.</i> | | Planning Committee Report states 49 social rent units. | S106 Agreement states 49 social rent units. | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |
| 11/AP/3251 | 22/12/2011 | 34-42 Grange Road | <i>Again the planning committee report states social rent and the definition of 'social rent' in the section 106 agreement is worded in terms of affordable rent.</i> | | Planning Committee Report states 8 social rent units. | S106 Agreement states 8 social rent units. | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |
| 12/AP/2702 | 11/12/2012 | 6 Pages Walk, SE1 4SB | <i>The planning committee report said that 12 of these 82 new homes consented would be social rent. However, again the definition of 'social rent' in the section 106 agreement is worded in affordable rent</i> | | Planning Committee Report states 12 social rent units. | S106 specifies 12 social rent units as per standard definition. Scheme also includes 7 intermediate rented units. | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>terms.</i> | | | | | |
| 12/AP/4049 | 19/04/2013 | 27-29 Blue Anchor Lane Bermonds ey | <i>The planning committee report said that of the new homes, 6 would be social rent. However, again the definition of 'social rent' in the section 106 agreement enables affordable rent.</i> | | Planning Committee Report states 6 social rent units. | S106 Agreement states 6 social rent units as per standard definition. | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| 10/AP/3010 | 25/01/2011 | "The Exchange" - Bermondsey Spa | <i>This application was made by Notting Hill Housing Trust, for the redevelopment of part of the Neckinger estate, as part of the Bermondsey Spa regeneration and was approved by planning committee On 21st December 2010. Permission allowed for the demolition of a number of Council homes and construction of 205 new homes, some commercial and community premises and associated works. Permission was granted on the basis that the new homes would provide 44 social rent units. This is confirmed by both the officer's report and the GLA planning report for the application. These units were not delivered and instead 44 affordable rent units were</i> | | See Council Response column. | S106 does not define "social rent units". Schedule 5 of the S106 Agreement ("Approved affordable housing mix") makes reference to "affordable rented" housing and no reference to "social rent." | None | <ul style="list-style-type: none"> The Council investigated an alleged breach of the Section 106 Agreement following a Question to the Leader from Councillor Adele Morris. The Leader's response, provided in October 2015, was as follows: "The council has investigated the alleged breach of the Section 106 Agreement on The Exchange development and has taken legal advice. As a result the council will not be taking any further action on this matter. However, the Notting Hill Housing Trust has undertaken to deliver more affordable housing of the types that meet the urgent needs of the borough on other sites. For example, they have improved the offer of affordable housing on the Manor Place Depot site so that 34 units that were previously intended to be affordable rent set at 56.7% of market rent for 1 bed units and 61.6% of market rent for 2 bed units (inclusive of service charges), capped at Local Authority Housing Allowance Levels, will now be social rent accommodation where the rent levels are determined through the national rent regime. We are working with Notting Hill Housing Trust to identify ten additional social rent homes elsewhere in the borough." |

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| | | | <p><i>substituted for them, which had rents that were appreciably higher than social rent, at up to 63% of market rent. (NB We note that the Council considers the matter resolved, partly through having secured a number of social rented units from Notting Hill Housing Trust at its Manor Place depot development (Council Assembly answer 7, Nov 25 2015; application (ref 15/AP/1062). However, these units were required to meet the affordable housing quota for that site and therefore cannot be used to offset the shortfall at the Bermondsey Spa redevelopment; a net loss of social rent housing remains across the two sites).</i></p> | | | | | |

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| 09/AP/1870 | 17/02/2010 | Canada Water regeneration sites A&B | <i>The planning committee report for the planning application behind this development, said that it would provide 123 social rent homes. However again the section 106 legal agreement describes these in terms of 'affordable rent' (i.e. up to 80% market rent).</i> | Affinity Sutton | N/A (Pre-dates Affordable Rent) | The S106 uses "affordable rent" rather than "social rent" prior to the introduction of "affordable rent" product to define the 123 units. Same definition as "social rent" as per other S106 agreements). Schedule 4 of the S106 ("Affordable housing mix" only distinguishes between the affordable units using "rented" and "S/O." | None | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |
| 12/AP/4126 | 20/12/2013 | Canada Water Site C | <i>Notting Hill Housing Association was granted planning permission for 1,046 units of which just 34 would be social rent. Despite the planning committee report clearly stating 'social rented', when it came to drafting the S106 agreement Notting Hill omitted the 'social' from 'social rent', consequently leaving the door open to</i> | | Planning Committee Report states 34 social rent units. 128 "affordable rent" units. | <p>Specific numbers of units are not quoted in the S106, however reference is made to the "Affordable Housing Framework".</p> <p>Explicit definitions between social rent units (including reference to target rent and the NRR etc.) and "affordable rent" units (including being no higher</p> | None | <ul style="list-style-type: none"> • S106 distinguishes between social rent and Affordable Rented units as per planning committee report. |

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| | | | <i>interpretation as affordable rented. Indeed, in its press release and web page for the scheme, Notting Hill describes all rented units as 'affordable rent'.</i> | | | than 80% of LMR or LHA etc.). | | |
| 13/AP/1429 | 22/10/2013 | Canada Water Site E Mulberry Business Park | <i>The planning committee report confirms that developer Galliard homes submitted a financial viability assessment claiming that it couldn't provide the required 35% affordable housing and could only afford to provide 23 social rent units in total. However, again the section 106 agreement signed in relation to the planning permission states that rent levels for the 23 social rent units are to be determined by the Homes and Communities Agency's formula for 'affordable rent' (i.e. up to 80% market</i> | | Planning Committee Report states 23 social rent units | Explicit reference of definitions of "social rent housing" and "social rent units" as per NRR etc. Schedule 6 confirms 23 units to be delivered as social rent. | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>rent).</i> | | | | | |
| 06/AP/1481 | 19/06/2007 | Neo Bankside development | <i>According to the planning officer's report for the planning application, this would provide off-site affordable housing comprising 130 homes of which 94 would be social rent. However planning documents show that just 62 social rent homes have been provided. Furthermore, the officer's report and section 106 agreement asserted that the off-site social rent units were to be fully funded by Neo Bankside without the need for any supplemental grant funding. However, GLA records show that the following Neo Bankside off-site provision sites did indeed receive grant funding (and for</i> | Various | N/A (Pre-dates Affordable Rent) | S106 specifies 102 off-site social rent units to be delivered. | The Deed of Modification, dated June 24, 2010, specifies off-site social rent provision only in terms of habitable rooms, however numbers were not changed. This replaces the previously agreed upon number of habitable social rent rooms with 315 habitable rooms, with mix and size to be agreed upon with the Council. Further deed of modification dated July 26, 2011 also makes amendments but does not amend the number of | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |

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| | | | <p><i>affordable rent not social rent):</i></p> <ul style="list-style-type: none"> • 10/AP/2429 <i>Neo Bankside off-site social housing provision agreement Affinity Sutton 9 social rent homes</i> • 10/AP/0663 <i>Neo Bankside off-site social housing provision agreement Affinity Sutton 4 social rent homes 10/AP/1860 Neo Bankside off-site social housing provision agreement Affinity Sutton 23 social rent homes</i> • 10/AP/2725 <i>Neo Bankside off-site social housing provision agreement Affinity Sutton 17 social rent homes</i> • 11/AP/0138 & 11/AP/4338 <i>Neo Bankside off-site social housing provision agreement Family Mosaic 22 social rent homes</i> | | | | <p>social rent habitable rooms.</p> <p>Officer report for application 13/AP/1950 suggests that all off-site affordable housing has been delivered as per agreement.</p> | |

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| 11/AP/0139 | 22/03/2012 | Silwood estate regeneration Site 4B | <i>Notting Hill Housing 22 social rent homes. The definition of social rent in the section 106 agreement is worded as affordable rent and these are showing up in GLA funding records as having been provided as affordable rent.</i> | Notting Hill Housing | Planning Committee Report states 22 social rent units. | S106 Agreement states 22 social rent units. "social rent units" defined as per standard definition. | None | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |
| 04/AP/0102 | 24/09/2006 | Bermonds ey Spa Regeneration | <i>Hyde Housing was granted outline planning for 605 homes in 2005, 202 of which should have been social rent. The outline planning consent was for a number of sites (EU) that would come forward in reserved matters in a period spanning nearly 10 years. Several of the latter phases are showing up in the GLA data as affordable rent rather than social rent. Hyde Housing has also been advertising units on this site to</i> | | N/A (Pre-dates Affordable Rent) | The affordable housing units are listed within the S106 agreement as affordable rent. However, S106 Agreement predates Affordable Rent. | No variations or further amendments noted. | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>rent at £1800 per month (intermediate rather than social rent).</i> | | | | | |
| 14/AP/0175 | 30/05/2014 | 166-178 Camberwell road, SE5 | <i>84 units of which planning committee report said 10 would be social rent. These are listed by the Housing Association (A2Dominion) in its press release as affordable rent.</i> | | Planning Committee Report states 82 units 35% of which will be affordable housing (social rent + shared ownership housing) | S106 Agreement states 10 social rent units, 14 shared ownership units. | REF. 15/AP/4690 to allow change of Flat 14 in Block 11 from Private Tenure to Shared Ownership. | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. • Press releases tend to use the term 'affordable' as an adjective rather than in the technical sense. As such this does not constitute grounds to suspect a breach of the S106 Agreement. |
| 11/AP/0217 | 03/08/2011 | 20-30 C9 Wilds Rents SE1 | <i>The planning committee report confirms that six of the 37 new residential units in this development were to be social rent (5 x 3beds, 1 x 2bed). However, the section 106 agreement defines social rent using the affordable rent definition.</i> | | Planning Committee Report states 37 residential units of which 6 affordable (social rent) units on the first floor. | S106 'social rent units' definition describes the total cost of rent and service managements charges for 6 'social rent affordable housing units' should meet targets for 'affordable rented' housing set by the Housing Corporation. Wording is consistent with a definition of social rent. | N/A | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |
| 11/AP/1180 | 16/08/2011 | 434-452 Old Kent Road | <i>The planning committee report for this application said that 8 of the 85 new</i> | | Planning Committee Report states 85 residential units, (8 social rent units and 13 | S106 'social rent units' definition describes the total cost of rent and | REF. 13/AP/3132 would propose an additional | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>residential units in this development would be social rent. Indeed it made special reference to the preference of social rent over affordable rent in its negotiations with developer L&Q. However, the section 106 agreement defines social rent using the affordable rent definition.</i> | | intermediate units). It secured 77 affordable habitable rooms, comprising 33 in the social rent sector and 44 shared ownership. | service managements charges for 8 'social rent affordable housing units' should meet targets for 'affordable rented' housing set by the Housing Corporation. It also defines 'intermediate rented housing' as an affordable housing unit let at a rent level below market rent, above social housing target rent and affordable by households. Wording is consistent with a definition of social rent. | social rent unit. Hence, some amendments in definitions: 'affordable housing units': 22 instead of 21 dwellings to be constructed being 79 instead of 77 habitable rooms; 'remaining units': 63 instead of 64 residential units; 'social rent units': 9 instead of 8 units. | |
| 12/AP/3558 | 03/06/2013 | 90-92 Blackfriars Road | <i>The planning committee report for this application said that of the 53 residential units consented, 8 would be social rent. However, the section 106 agreement defines social rent using the</i> | | Planning Committee Report states 10 affordable units (8 social rent units and 2 shared ownership units). | S106 'social rent units' definition describes the total cost of rent and service managements charges for 8 'social rent affordable housing units' should meet targets for | N/A | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>definition for affordable rent.</i> | | | 'affordable rented' housing set by the Housing Corporation. Wording consistent with a definition of social rent. | | |
| 12/AP/0164 | 30/03/2012 | 126 Spa road | <i>The Planning Committee Report approves 46 units of which 38 private, 7 social rent and 1 affordable rent capped at 65% market rent. However, in the section 106 agreement for this application, the social rent units are described as 'affordable rent' enabling rents of up to 80% market rent. In Jan 2016, Hyde advertised a 3bed 'affordable' unit in this development for rent at £1,849 per month.</i> | Hyde Housing | Planning Committee Report states 46 residential units (38 private, 7 social rent units and 1 affordable rent unit capped at 65% of market rent). No intermediate units. | S106 defines an Approved Affordable Housing Mix in Schedule 5. The Approved Affordable Housing Mix is 3x3bed at Target Rent, 4x4bed at Target Rent and 1x3bed at Affordable Housing Market Rent. The S106 states the total cost of and service charges for the Affordable Housing Market Rent unit should not exceed 65% of market rent. The S106 states the total cost of rent and service management charges should meet targets for affordable rented | N/A | <ul style="list-style-type: none"> • S106 distinguishes between social rent and Affordable Rent units as per planning committee report. |

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| | | | | | | housing set by the Housing Corporation. | | |
| 05/AP/2617 | 13/09/2007 | Bermonds ey Spa regeneration Hyde Housing | <i>Planning application documents show that 138 homes were approved here, of which 38 should have been social rent. However, the S106 agreement provides an accommodation schedule of which units should be social rent, but fails to provide any definition of social rent whatsoever.</i> | | N/A (Pre-dates Affordable Rent) | S106 provides a schedule of affordable housing comprised of 38 social rent units and 31 shared ownership units. There is no definition of 'social rent' units. | N/A | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |
| 09/AP/2388 | 08/09/2010 | Royal Rd Heygate replacement housing site | <i>The 76 social rent homes consented are being advertised by Affinity Sutton as affordable rent and are also described in the GLA outturn data as affordable rent.</i> | Affinity Sutton | N/A (Pre-dates Affordable Rent) | The development will provide 76 affordable housing units including 10 wheelchair affordable units. | N/A | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |

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| | <ul style="list-style-type: none"> • 09/01/2009 • 06/01/2009 • 07/01/2009 • 07/01/2009 • 12/01/2009 | Heygate replacement housing sites | <p><i>We also understand that the following L&Q developments comprising the other Heygate 'early housing sites' have clauses in the section 106 agreements enabling affordable rent to be provided instead of social rent:</i></p> <ul style="list-style-type: none"> • 08/AP/2406 <i>Albert Barnes House Heygate replacement housing site London & Quadrant 18 social rent homes</i> • 08/AP/2409 <i>Prospect House Heygate replacement housing site London & Quadrant 15 social rent homes</i> • 08/AP/2411 <i>Townsend Street Heygate replacement housing site London & Quadrant 37 social rent homes</i> • 08/AP/2427 <i>Library Street Heygate replacement housing site London & Quadrant 21 social rent homes</i> • 08/AP/2440 <i>Brandon Street</i> | | N/A (Pre-dates Affordable Rent) | <p>08/AP/2406 S106 defines the 18 social rent units as affordable rented units.</p> <p>08/AP/2409: no original s 106 agreements found.</p> <p>08/AP/2411 defines the 13 social rent units as affordable housing units.</p> <p>08/AP/2427 defines the 16 social rent units as affordable housing units.</p> <p>08/AP/2440: defines the 9 social rent units as affordable housing units.</p> | <p>Approved tenure mix at the 5 L&Q sites form part of Elephant and Castle Early Housing Projects:</p> <ul style="list-style-type: none"> • 08/AP/2406 <i>Albert Barnes House New Kent Rd 18 affordable rent units and 34 private units instead of 18 affordable rent and 34 intermediate housing.</i> • 08/AP/2409 <i>Prospect House: 7 intermediate housing and 8 private units instead of 15 affordable rent.</i> • 08/AP/2411 <i>Townsend Street: 13 Affordable rent and 24 private units instead of 37 affordable rent</i> • 08/AP/2427 <i>Library Street:</i> | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>Heygate replacement housing site London & Quadrant 18 social rent homes</i> | | | | 16 affordable rent and 24 private units instead of 21 affordable rent and 19 intermediate housing. • 08/AP/2440 Brandon Street: 9 affordable rent and 9 private units instead of 18 affordable rent units. | |
| 06/AP/2272 | 09/07/2007 | Bermonds ey Spa Site C (Larnaca Works) | <i>Paragraph 61 of the planning report for the Larnaca site planning application confirms that the Larnaca development was to provide 90 residential units with 35% affordable housing, comprising 87 affordable habitable rooms of which 61 habitable rooms would be social rented (17 units). However, the section 106 agreement describes these 17 units as 'affordable rent'. The</i> | | N/A (Pre-dates Affordable Rent) | There is no definition of 'social rent' housing in the S106. The agreement describes the 17 units as 'affordable rent' units instead of social rent units. | S106 Agreement deed of variation 25/03/09 described the 10 shared ownership units would be amended to affordable rent units. In total 27 affordable rent units. | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>GLA Affordable Housing outturn data shows Hexagon Housing Association as the the Larnaca Works site's registered provider. The 17 units are listed in the GLA outturn data as affordable rent.</i> | | | | | |
| 14/AP/2102 | 18/11/2014 | Bermonds ey Spa Site C (Grange Yard) | <i>The planning committee report for the planning application confirms that this site was to provide 167 residential units, of which 34 were to be social rent. The section 106 agreement for this development is not available on the planning portal so it is not known whether this states social or affordable rent, but the Mayor's GLA dataset lists this scheme (under Leicester Housing association) with rents at affordable rents well above social rents at 52% market rent,</i> | | Planning Committee Report states 167 residential units (22 intermediate units, 34 social rent units and 111 private units) | S106 correctly defines 22 shared ownership housing units and 34 social rent units. | N/A | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <i>which equated to £154 per week (excl. service charges) for a 1bed in March 2014.</i> | | | | | |
| 11/AP/2565 | 30/03/2012 | Quebec Quarter (Canada Water) | <i>L&Q was granted permission in 2011 for the construction of 7 blocks comprising 366 residential units of which 25% must be affordable . The officer’s report for the planning application states the development will be built “with social rent units providing 61% of the affordable units”. However, the section 106 agreement signed in relation to the planning consent states that rents for the social rent units should be determined according to the HCA’s formula for affordable rents (i.e. up to 80% market rent). Furthermore, L&Q’s website now describes the social</i> | | Planning Committee Report states 366 residential units (51 social rent units, 38 intermediate units and 277 private units). | S106 defines 38 shared ownership units instead of 38 intermediate units. Affordable housing secured as per Schedule 4 which requires affordable rented homes to be social rent/ | REF. 12/AP/3651 deed of variation relating to 11/AP/2565: Amendment to the location of the affordable units to spread the units throughout the scheme and amendment to the phasing of the scheme. No related documents online. | <ul style="list-style-type: none"> • S106 requires all affordable rented homes to be social rent. |

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| | | | <p><i>housing at Quebec Quarter as 'affordable rent'. The officer's report also promised that there would be a review mechanism inserted into the section 106 agreement to capture any uplift in the property market between consent and implementation. However, according to the Council's planning portal there has been no such viability review, despite the significant increase in property prices since the scheme was consented in 2011.</i></p> | | | | | |
| 12/AP/2444 | 27/11/2012 | Camberwell Road/Medlar Street | <p><i>In November 2012, Peabody was granted planning permission to build 66 homes on this two part site of which 14 would be social rent and 6 affordable rent (up to 80% market rent). However, in April 2015 Peabody wrote to the Council</i></p> | | <p>Planning Committee Report states 66 units (22 market sale units, 24 intermediate units and 20 affordable rent units), of which 14 would be target rent.</p> | <p>S106 defines 14 target rent units (including 6 houses) as 'social rent' units. It defines 3 one-bedroom units need to meet 80% market rent level, 3 two-bedroom units need to meet 70% market rent level.</p> | <p>No further information available online.</p> | <ul style="list-style-type: none"> • S106 distinguishes between social rent and Affordable Rent units as per planning committee report. |

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| | | | <p><i>explaining that despite GLA funding and a £2m expected windfall due to the property market upturn, it would need to reduce the number of social rent units because it had incurred £997,000 in unforeseen costs of asbestos removal during site remediation. As a result, 6 of the 4beds and 3 of the social rent 3beds that were originally consented will instead be sold as private housing, leaving just 5 social rent homes in the development. The application for a variation of the agreed affordable housing quota was not accompanied by a viability assessment, as required by the legislation governing section 106B applications for variations.</i></p> | | | | | |

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| 14/AP/3842 | 12/02/2016 | 185 Park Street | <i>The planning committee report for this application confirms that the developer would be fulfilling the affordable housing requirements off-site. Namely by rebuilding a care home on Southwark Park road. We understand that instead the Care Home site is being sold (freehold) by the Council to the developer and that the care home units will not be policy compliant affordable housing secured by a section 106 agreement. Instead the site will be leased to a charity (United St Saviours) for a period of 50 years, after which time all of the accommodation will revert to the ownership of Delancey and will then be entirely unencumbered by any contractual obligation to remain</i> | | Planning Committee Report states the development will provide affordable housing units off-site equivalent to 235 habitat affordable rooms. They have offered an in lieu contribution of £6.5m to deliver affordable housing elsewhere in the borough. There is no on-site affordable housing. | S106 Agreement states Affordable Housing Units equivalent to 235 Rooms would be provided on a Donor site (in addition to any Affordable Housing that would be required for that Donor Site in accordance with the development plan) and comprised of social rent units and Shared ownership units. If a Viability Review is required to be submitted by the Developer to the Council any Deferred Payment shall not exceed £5m Index Linked in respect of the Southwark park Road Deferred Payment; £ 5m Index Linked in respect of the Donor Site Deferred Payment; and £ 15m Index Linked in respect of the Affordable | REF. 15/AP/3508 would provide a total of 206 habitable rooms which together with the £ 6.5 million in lieu payment as the S106 agreement for the 185 Park Street. However, the Officer Report states the requirement of off-site affordable units should be equivalent to 202 habitat units rather than 235 units. | <ul style="list-style-type: none"> • There is no policy requirement for social rent units to be secured for a 125 years (they are secured in perpetuity without prejudice to statutory provisions to the contrary). • Planning Committee determines the weight that should be given in applying different planning policies. |

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| | | | <i>affordable housing. This is a breach of policy which requires a minimum period of 125 years for the securing of affordable housing tenure.</i> | | | Housing Contribution Deferred Payment. | | |
| 05/AP/0495 | 21/02/2006 | 122-144 SOUTHWARK BRIDGE ROAD | <i>The section 106 agreement for this application states that of the 164 new homes, 26 should be social rent and 36 shared ownership. However, Land Registry documents indicate that no agreement has been signed with a registered provider for the provision of these.</i> | | N/A (Pre-dates Affordable Rent) | S106 Agreement states the development would propose 62 affordable units (26 social rent units and 36 shared ownership units). | N/A | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. • Land registry is incorrect. |
| 05/AP/1957 | 20/06/2007 | Redevelopment of Wyndham Garage, Wyndham Road SE5 OUB | <i>The planning committee report states that it was supposed to provide 9 social rent units, but units in this development have been advertised online at affordable rents.</i> | | N/A (Pre-dates Affordable Rent) | S106 Agreement states the development would propose 28 affordable housing units (9 affordable rent units and 19 shared ownership housing units). | N/A | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent • S106 requires all affordable rented homes to be social rent |

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| 99/AP/1361 | 20/06/2007 | Hartleys Jam Factory, Bermondsey | <i>In September 2000, Southwark granted planning permission for the redevelopment of Hartley's Jam Factory in Bermondsey to provide 154 residential units (ref:99AP1361), a number of which were to be provided as affordable housing including social rent in the 5th phase of the scheme (Block E). It is understood that Block E was infact never built and that all 154 units have been sold as private residential dwellings.</i> | | N/A (Pre-dates Affordable Rent). | S106 Agreement states 24 affordable units would be constructed as part of Block D (18 two-bedroom flats and 6 one-bedroom flats) in addition to an in lieu 'affordable housing payment' of £ 270,000 affordable housing payment. | N/A | <ul style="list-style-type: none"> • S106 pre-dates the introduction of Affordable Rent. • S106 requires all affordable rented homes to be social rent. |
| 09/AP/1940 | 16/11/2011 | Signal Tower, Elephant & Castle | <i>The planning committee report for this 22 storey tower on Newington Causeway said that the development would provide 11 affordable homes at intermediate affordable rent. Land Registry information shows that no</i> | | The original Planning Committee Report (27/11/2009) states the development would propose 38 units (26 private units and 12 affordable housing units at intermediate affordable rent). Typically 20-30% below market rent. Later | S106 Agreement states the development will provide 11 intermediate rented housing units. | REF. 13/AP/0524 Variation of S106 seeks to modify Clause 1.1, Schedule 2 and Schedule 5 of the existing S106 agreement in order to change the affordable | <ul style="list-style-type: none"> • S106 secures intermediate housing, as per planning committee report. |

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| | | | <i>agreement has been signed with a registered provider accredited by the Tenant Services Authority and that these 11 units have been sold on the open market. The developer in this case is the same developer of the Jam Factory development (Galliard).</i> | | Officer Report from 2011 states the development would include 38 units (27 private units and 11 intermediate rent units). However, 27 private units comprised of (8 one bed, 17 two bed and 1 three bed). | | housing provision from 11 Intermediate Rented Housing Units to 11 Shared Ownership Units. Therefore, it deletes the definition of Intermediate Units and adds the definition of Shared Ownership units. | |