



## SCOTTISH EXECUTIVE

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Your ref:  
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7 March 2005

Dear Sir or Madam

### **PLANNING ADVICE NOTE 74 : AFFORDABLE HOUSING**

I enclose a copy of Planning Advice Note 74 : Affordable Housing.

Scottish Planning Policy (SPP) 3 : Planning for Housing published in 2003 sets out the planning policy context. It indicates that the planning system can play an important supporting role in the provision of affordable housing. SPP 3 also anticipated that supplementary planning advice would be published in due course. PAN 74 fulfils that commitment.

During 2004 the Executive carried out with support from key stakeholders a Review of Affordable Housing. That Review has resulted in a wide range of measures to improve housing supply and affordability in Scotland. The Review also acknowledged that the planning system has an important role in supporting the efficient functioning of the housing market and supporting the development of new housing, not just affordable housing, but also market housing. Interim results of the Review including related research reports and an analysis of the housing market in Scotland were published in July 2004 :- <http://www.scotland.gov.uk/News/Releases/2004/07/5777> The conclusions of the Review and the actions being taken as a consequence are set out in the Executive's housing policy statement "Homes for Scotland's People".

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Yours faithfully

*A. W. Denham*

ALAN DENHAM



# 74

## AFFORDABLE HOUSING





SCOTTISH EXECUTIVE  
Development Department

## **Planning Advice Note**

**PAN 74**

# **Affordable Housing**

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## PLANNING SERIES:

- **Scottish Planning Policies (SPPs)** provide statements of Scottish Executive policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.
- **Circulars**, which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change.
- **Planning Advice Notes (PANs)** provide advice on good practice and other relevant information.

Statements of Scottish Executive policy contained in SPPs and Circulars are material considerations to be taken into account in development plan preparation and development control.

Existing National Planning Policy Guidelines (NPPGs) have continued relevance to decision making, until such time as they are replaced by a SPP. The term SPP should be interpreted as including NPPGs.

Statements of Scottish Executive location-specific planning policy, for example, the West Edinburgh Planning Framework, have the same status in decision-making as SPPs.

The National Planning Framework sets out the strategy for Scotland's long-term spatial development. It has the same status as SPPs and provides a national context for development plans and planning decisions and the ongoing programmes of the Scottish Executive, public agencies and local government.

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## INTRODUCTION

1. A range of housing types, at different prices, tenures, and locations, is needed to cater for the increasing number and variety of households, to maintain the viability of communities, and to support the operation of local labour markets and the wider economy. SPP 3: *Planning for Housing* states that planning authorities should assess future housing land requirements for each housing market area and ensure that land is identified to fully meet requirements including affordable housing needs. The SPP broadly defines affordable housing as housing of a reasonable quality that is affordable to people on modest incomes, and notes that in some places the market provides some or all of the affordable housing needed while in other places it will be necessary to make housing available at a cost below market value, to meet an identified need. SPP 3 indicates that the planning system can play an important supporting role in the provision of affordable housing.
2. This Planning Advice Note sets out how the planning system can support the Executive's commitment to increase the supply of affordable housing. It provides advice and information, including existing examples of better practice. It seeks to speed up the development of both market and affordable housing by ensuring that any affordable housing requirement included in the development plan is realistic. The planning contribution is set within the wider housing policy context and recognises other mechanisms for the provision of affordable housing, some of which are delivered by Communities Scotland.

## CONTEXT

3. During 2004, the Executive carried out a wide-ranging Review of Affordable Housing in Scotland. The Review examined the functioning of the Scottish housing market and its impact on housing affordability; assessed affordable housing requirements; and considered measures to improve supply and affordability; and ways to address the imbalances between supply and requirements in local areas.
4. The Review included consideration of the implications for Scotland of the Barker Report<sup>1</sup>, published by HM Treasury in March 2004. The Barker Report concluded that the increase in UK house prices is out of line with experience in most other European countries and has social and economic consequences. One possible explanation for house price inflation was identified as a shortfall in available land for new housing development in relation to demand together with insufficient investment in new social housing.
5. House price inflation in Scotland, albeit lower than for the UK as a whole, indicates that in some areas with a high level of demand for owner-occupied housing the rate of building may not be keeping pace with market demand. The position is exacerbated by a shortfall in social rented housing and housing to

<sup>1</sup> Review of Housing Supply – Delivering Stability: Securing our Future Housing Needs – Final Report: Recommendations – Kate Barker March 2004 – [www.barkerreview.org.uk](http://www.barkerreview.org.uk)

purchase at affordable prices in particular areas of Scotland where the economy is more buoyant and household growth is relatively high.

6. In many rural areas there is a shortage of affordable housing. This is due to a number of factors. Stocks of social rented, privately rented and cheaper owner occupied houses may be relatively scarce, and particularly in social rented housing, turnover is low. Some smaller rural settlements are desirable locations for commuters and households looking for family housing. There may also be pressure from second home and holiday let purchases. There is also likely to be a requirement for affordable housing to meet the needs of new households who wish to remain in the area and contribute to the local economy.
7. Evidence considered by the Review showed a growing affordability problem. First time buyers have been increasing the size of their deposit to meet rising house prices and there has also been a reduction in the number of first time buyers in the past two years. Affordability has become a problem, particularly in housing market areas which are experiencing above average growth in the number of households. Sharp price rises in particular locations may suggest not enough houses of the right type are being built. These housing market problems also have wider implications including impact on labour markets and labour mobility.
8. The Affordable Housing Review has resulted in a wide range of housing and planning measures to support the efficient functioning of the housing market, address housing affordability issues, and increase the supply of affordable housing for social rent and low cost ownership. The Executive is committed to investing £1.2 billion over the next 3 years, 2005-2008, through the Housing Investment Programme administered by Communities Scotland, and in Glasgow and Edinburgh by the City Councils. This Programme will fund provision of 21,500 new affordable homes – just over 16,500 homes for social rent and nearly 5000 homes for low cost home ownership.
9. SPP 3 acknowledges that some areas within Scotland have an adequate supply of affordable housing or even a surplus, while in other areas there is a shortage. Research<sup>2</sup> has analysed local housing need and affordable housing requirements for Scotland. Housing and planning policies need to recognise these regional and local differences. Broadly, this means targeting new supply of affordable housing in those areas with a shortfall, whilst considering regeneration in those areas which have a surplus.
10. Local authorities will identify the scale of affordable housing and the numbers and types of lower cost housing units required in the area through their local housing strategy (see paragraphs **19-20**), informed by housing market studies and housing needs assessments. The Executive attaches high importance to the development of mixed, sustainable communities with a range of housing types and tenures which can share community and other facilities, to ensuring that the appropriate levels and mix of affordable housing to meet assessed requirements are provided, and to achieving this with the most efficient use of public subsidy.

<sup>2</sup> Local Housing Need and Affordability Model for Scotland – Update, Professor Glen Bramley, Heriot Watt University, June 2004 (pdf 355kb). This report is also available on the Communities Scotland website.

Whilst much affordable housing will only be deliverable with some form of public subsidy, not all sites will fall within areas of strategic priority for development funding. Where public subsidy is not available, or will only meet part of the requirement, affordable homes built without public subsidy will have a role to play. The need to secure affordable housing should not in itself lead to unacceptable delays in the delivery of market housing.

11. Categories of affordable housing include:

- **Social rented** – housing provided at an affordable rent and usually managed locally by a Registered Social Landlord (RSL) such as a Housing Association, Housing Co-operative or other housing body regulated by Communities Scotland. Social rented stock is also owned and managed by local authorities;
- **Shared ownership** – the owner purchases part of the dwelling and rents the remainder usually from a RSL. The owner can buy tranches of 25%, 50% or 75% of the property;
- **Shared equity** – the owner purchases part of the dwelling, with the remaining stake purchased usually by a RSL using Communities Scotland grant. Unlike shared ownership, the owner pays no rent for the equity stake which is retained by the RSL. While the RSL does not receive any rental income in respect of their stake, it benefits from any equity gain when the house is sold.
- **Discounted low cost sale** – a dwelling sold at a percentage discount of its open market value to households in the priority client group<sup>3</sup>. Discounted serviced plots for self build can also contribute, particularly in rural areas. A legal agreement can be used to ensure that subsequent buyers are also eligible buyers. In rural areas this may be achieved through a rural housing burden<sup>4</sup>.
- **Housing without subsidy** – non-subsidised affordable housing is likely to take the form of entry level housing for sale, some built at higher densities and with conditions attached to the missives designed to maintain the houses as affordable units to subsequent purchasers. Homes delivered without subsidy may be considered to fulfil part of the overall affordable housing requirement where it can be clearly demonstrated that they will meet the needs of, and be affordable to, groups of households identified through the housing needs assessment.

12. The local housing strategy will provide evidence of the relative balance between the needs of the different categories described above. The LHS is expected to identify any shortfall in provision for particular types of household, such as households with care and support needs, and to take into account the needs of households with children, disabled people and older people. In addition, it should take account of any needs generated by student populations and highlight where a supply shortfall may be preventing essential low paid workers from accessing the social rented sector.

<sup>3</sup> For such housing to count as affordable housing, the level of discount appropriate in order to reach the priority client group in a locality should be defined by the local authority in consultation with Communities Scotland.

<sup>4</sup> Under the Title Conditions (Scotland) Act 2003

## ROLES OF MAIN AGENCIES IN PROVISION OF AFFORDABLE HOUSING

### COMMUNITIES SCOTLAND

13. Communities Scotland is a Scottish Executive agency. One of its primary roles is to provide public funding to support the provision of affordable housing for both rent and ownership.<sup>5</sup> This funding is generally in the form of grant.
14. The majority of Communities Scotland's funding is directed through the Registered Social Landlord (RSL) sector. However, the Agency may also make grants available directly to the private sector to support housing for sale in areas where the lack of an existing market for owner occupation means that the properties require to be sold at a price that is less than the cost of development.
15. Grants to RSLs to provide affordable housing for rent can become repayable if the house is subsequently sold (for example, under the right to buy). If the sale price is less than the total grant paid in respect of the property, the remaining grant is written off.
16. In an effort to provide more housing for sale at affordable prices, Communities Scotland is introducing a range of mechanisms based on the concept of Shared Equity. The main advantage of this form of support is the grant input can be recycled to provide a subsidy in perpetuity. In Shared Equity initiatives, Communities Scotland will provide an RSL with a grant to purchase a stake in a property, allowing a first time buyer (or other target group) to purchase only that stake in the property which they can afford. In some cases the equity stakes will be available in targeted developments; in other cases they may be available to targeted recipients. When a shared equity property is sold the equity stake owned by the RSL can be made available to the next owner (where they meet the eligibility criteria) or the funds released (including any equity gain) which can be used to purchase an equity stake in another property.
17. Developers or RSLs who are interested in finding out more about the availability of grants (either for rent or low cost home ownership) should contact the appropriate Communities Scotland area office. Contact details on the Communities Scotland web site at [www.communitiesscotland.gov.uk](http://www.communitiesscotland.gov.uk)

### LOCAL AUTHORITIES

18. Local authorities have a key role in determining the nature and extent of local housing needs and developing a locally-based affordable housing policy framework. Where the provision of affordable housing is a high priority for a local authority, close working between the planning and housing interests within the authority will be essential, in particular to ensure consistency between the local housing strategy (see paragraph 19) and the development plan. Likewise,

<sup>5</sup> In Edinburgh and Glasgow this role is now undertaken by the local authority

where the local authority intends to introduce a development plan policy seeking to support delivery of affordable housing, the authority should work closely with RSLs and developers (and other providers where appropriate) to ensure that there is a common and shared understanding of the policy and its implications. Better Practice Example A – Highland Rural Partnership for Change, Local Housing Development Fora provides an example of collaborative working.

19. The Housing (Scotland) Act 2001 requires local authorities to undertake an assessment of housing needs and conditions in their area and to produce a local housing strategy (LHS). Communities Scotland has issued guidance on preparing the strategies, which sets out methodologies for determining housing needs, and indicates that the strategies should cover a 5 year period and address all tenures, including affordable housing, and be prepared in consultation with stakeholders. The LHS Guidance is available on the Communities Scotland web site at <http://www.lhs.scot-homes.gov.uk/>
20. The LHS is key to informing local targeting of development funding. Communities Scotland will continue to work closely with local authorities to ensure their local housing strategies recognise the wider housing market area context. The LHS will be adopted by the local authority and any identified shortage of affordable housing will inform the overall assessment of housing land requirements in the development plan.
21. Details of how the planning system can contribute are set out in the section on Delivering Affordable Housing through the Planning System from paragraph **27**. Any planning contribution should be set alongside other means of delivering affordable homes. Other measures available to local authorities to help increase supply of affordable housing may include:
  - making appropriate surplus local authority owned land or buildings available for affordable housing, at less than full market value, either individually or as a package of site disposals. Under the Affordable Housing Review, the Scottish Executive and COSLA are examining the arrangements governing disposal of land held by local authorities (as well as other public bodies) on a favourable basis for affordable housing;
  - working with third parties to assemble sites for affordable housing including other public agencies with large land holdings, such as the Forestry Commission. Development trusts (such as the Highlands Small Communities Housing Trust) may also have a role in assembling land;
  - opting to increase the rate of council tax on second homes from 50% to 90%, raising revenue which can be used to increase the supply of affordable housing within the housing market area. This may be particularly relevant in rural areas with a high proportion of second homes; and
  - use of compulsory purchase powers to secure opportunities for new supply and regeneration.



### THE DEVELOPMENT INDUSTRY

22. To meet the policy requirement for more diverse, attractive, mixed communities, SPP 3 seeks the delivery of a choice of residential environments and a range of housing types, from affordable housing and starter homes to executive housing. The development industry can make a contribution to the overall requirement for affordable housing by delivering a mix of housing types and sizes on housing sites wherever possible.
23. The development industry also has an important role working with local authorities and RSLs in contributing to the wider policy on affordable housing where a requirement is set out in an approved development plan. Developers will expect certainty from the development plan and the development control process. Where there is a requirement for land for affordable housing set out in the development plan (see paragraphs **29-32**), developers should take this into account in their financial appraisal of the site.

### REGISTERED SOCIAL LANDLORDS (RSLs)

24. Registered Social Landlords (RSLs) provide housing for let and low cost home ownership. Some RSLs are community based while others have a national, regional or client specific focus. RSLs do not trade for profit and are rigorously regulated by Communities Scotland which has statutory powers to take action in the event of performance failure, mismanagement or maladministration.
25. Planning applications which involve developers working with RSLs to secure delivery of affordable housing are likely to progress most smoothly where the developer enters into early discussions with an RSL as a potential development partner. It is important that the RSL is able to provide local management of the proposed affordable dwellings. Further information regarding RSLs and their geographic areas of operation is available from Communities Scotland area offices.
26. Where an RSL is providing new build affordable housing a proportion of the development costs is often met by grants from Communities Scotland and the remaining finance borrowed from commercial lenders. Consequently, early discussions with local authorities and Communities Scotland regarding the provision of subsidy are recommended. Where an RSL or public subsidy is involved it is expected that the affordable housing provided will meet minimum development standards laid down by Communities Scotland and/or the local authority (see also paragraph **53**).

# DELIVERING AFFORDABLE HOUSING THROUGH THE PLANNING SYSTEM

## ROLE OF DEVELOPMENT PLANS

27. Scottish Planning Policy (SPP) 3: *Planning for Housing* states that where a planning authority believes the planning system has a role to play in the provision of affordable housing, this should be signalled in the development plan, setting out what is expected from prospective developers.

### Structure plan

28. The structure plan<sup>6</sup> will include a calculation of the overall housing land requirement for a period of at least 12 years, and preferably indicate the scale and location of housing development for the period beyond year 12. This is explained more fully in SPP 3 and PAN 38: *Housing Land*. Where a local housing strategy identifies a need for additional affordable housing, this should be taken into account in the housing land requirement, which should provide for the total anticipated land requirement for all forms of new housing. The structure plan should indicate the scale and general location of any shortage of affordable housing and indicate how local plans will be expected to deal with the shortage.

### Local plan

29. The requirement for affordable housing should be seen as part of the overall housing requirement, not a separate element. Local plans should therefore allocate sufficient land to meet the requirement identified in the structure plan including affordable housing. It is important that there is an up-to-date understanding of requirements consistent with a local housing strategy addressing the need for different categories of affordable housing from social rented housing to low cost home ownership. One means through which local authorities may seek to influence the delivery of affordable homes is by allocating sites in local plans specifically for affordable housing. Since the policy requirement in SPP 3 is for diverse, mixed residential communities however, this is most likely to be appropriate for small scale sites.
30. Where a local authority intends to use the planning system to support affordable housing provision it is essential to set this out in local plan policy. In circumstances where this cannot be achieved swiftly because the local plan is not due for review, the planning authority may wish to consider an alteration to the local plan, or an interim policy, subject to consultation with stakeholders. This should then be reflected in the adopted local plan at the earliest opportunity.

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<sup>6</sup> These strategic elements will be addressed through the proposed city region plans, and outwith the city regions, through local development plans.

31. Where the planning authority wishes to seek a percentage contribution of affordable housing on private housing sites, this should be set out as a clear policy in the local plan. Any such requirement must be justified by a housing needs assessment as part of the local housing strategy. Advice on this is contained in the section on the Nature of the Affordable Housing Contribution from paragraph 34. Where it is known that particular items of infrastructure are required to enable development to go ahead, these should be identified in the local plan. It is important that developers have an early indication of the requirement for affordable housing, and other requirements for which a financial contribution is expected, so that the cost implications can be fully estimated at the time of site purchase.
32. Box 1 sets out a guide to the steps which should be taken in determining the appropriate measures to support affordable housing through the development plan. However the scope for and scale of contributions through the planning system will depend on a number of factors, including the vibrancy of the local housing market. In some areas, especially in some rural areas, the planning authority may conclude that there is limited scope to achieve new affordable housing through this approach. Other measures that planning authorities should consider include allocating new sites in local plans specifically for affordable housing, in particular small sites within or adjoining existing villages to provide for local needs in perpetuity; identifying plots for self build dwellings; using compulsory purchase powers to support the delivery of social rented housing; and working with major land owners who may be able to identify opportunities to convert surplus properties in their ownership or develop new affordable housing.

#### **Supplementary planning guidance**

33. The general policy in the local plan can be supplemented by more detailed non statutory planning guidance. This may cover issues such as the local authority's approach to negotiating planning agreements, off-site provision and commuted sums (see also the section on Development Control paragraph 41). Where the planning authority intends to introduce supplementary planning guidance, it should also be subject to consultation with stakeholders before adoption by the local authority.

#### **Nature of the affordable housing contribution**

34. The Executive's aim is to create a climate of certainty and confidence in the requirement for affordable housing, in order to reduce the need for negotiation on each site, which will be beneficial for both developers and local authorities. Policies in local plans may seek affordable housing contributions as part of housing development proposals, with the inclusion of a percentage figure. The benchmark figure is that each site should contribute 25% of the total number of units as affordable housing.

35. A percentage figure set out in a local plan policy should not preclude a developer offering to include a higher percentage in an individual development. The local authority may also seek a higher percentage on a specific site but this will only be appropriate in exceptional circumstances, for example linked to a substantial release of greenfield land or on a site owned by the local authority or another public agency which is being released for development.
36. It is vital that local plan policies, including the percentage figure appropriate to the area, are fully justified by reference to all relevant factors and where necessary associated with a development brief. Policies in local plans should:
  1. be developed in full consultation with stakeholders, including the development industry, with the aim of achieving a shared understanding of the potential contribution of this source of supply and avoiding lengthy disputes at local plan inquiries or in planning appeals;
  2. be justified by a housing needs assessment which should reflect the diversity of requirements within in an area;
  3. take into account land values and have regard to other financial obligations linked to particular developments, including any expectation that developers will contribute to infrastructure and supporting development such as schools or roads;
  4. be sensitive to different levels of need in different parts of the local authority area, particularly in rural areas; and
  5. where higher percentages are sought on particular sites as exceptions to the overall policy, identify the percentage with a clear and reasoned justification for such exceptions.
37. As a guide, for sites in urban areas local authorities should seek to achieve on-site provision for developments of 20 or more units, but on smaller sites allow for off-site provision or commuted sums. In rural areas where the general scale of development is smaller, a lower threshold for on-site provision may be appropriate in order to make affordable housing available in a range of locations.
38. The contribution required by the local authority from the developers of a market housing site should normally be the provision of serviced land i.e. a proportion of the site which can be developed by or for a RSL. Such land should be transferred either at a value relating to its end use for affordable housing or by agreement between the developer and the RSL, at a lower value. In any event it should be transferred at less than the value for mainstream housing for sale. The value should be determined by the District Valuer or a chartered valuation surveyor suitably experienced in the type of property and the locality and appointed by mutual agreement between the parties, failing which the chairman of the RICS in Scotland.

39. As indicated earlier a site may not always fall within areas of strategic priority for development funding, and where this is the case the local authority and developer will need to consider alternative means of provision. It will not be appropriate to introduce a policy which requires developers to construct new houses to be handed over free to a local authority or a RSL. However, by agreement with the planning authority, a developer may in some circumstances elect to provide completed units without subsidy rather than the plots required by the development plan policy. For example, instead of a larger area of ground at an agreed value (see paragraph **38**), the developer might provide a smaller number of completed homes for social rent and transfer these at the same overall value. Alternatively if social rented houses cannot be delivered for all or part of the site, provision of shared equity or discounted sale may be achievable. In each scenario it would be expected that the developer makes the same effective level of contribution, but potentially in different forms.
40. In support of the Executive's objective to achieve the development of mixed, sustainable communities, there should be a range of housing types and tenures which can share community and other facilities. The affordable housing component should be well-integrated into the overall development, and have good linkages to surrounding services including public transport. Concentrating affordable housing for rent in small groups rather than 'pepper potting' individual houses will ease the subsequent management of the homes by an RSL. Paragraph **55** provides further advice on the physical integration of affordable units. Where the development of a large site is phased, the implications for the supply of affordable housing should be considered and it may be appropriate to address these issues in a development brief.

## **DEVELOPMENT CONTROL**

### **Planning Conditions and Planning Agreements**

41. The local plan should set out the means of delivering affordable housing and indicate the likely nature and scale of other contributions expected from each development. Provision of land for affordable housing should where possible be the subject of a planning condition, particularly where a proportion of a site is to be made available for on-site provision of affordable housing, e.g. stating 'The area shown on the attached drawing (including reference) shall be development solely for the purposes of affordable housing to the satisfaction of the planning authority'. A Section 75 agreement may also be necessary, for example where a commuted sum is to be negotiated to enable off-site provision or to ensure retention of affordable units.

### **BOX 1 – SUMMARY OF STEPS TO SUPPORT DELIVERY OF AFFORDABLE HOUSING THROUGH PLANNING POLICY**

This chart sets out a series of steps to follow where a local authority intends to support delivery of affordable housing through planning policy:

#### **Step 1 – Prepare or update Local Housing Strategy**

- Undertake a housing needs assessment
- Assessment of existing affordable housing supply; and

#### **Step 2 – Assess housing market information**

- From both the housing needs assessment and market information, establish the need for different types of affordable and lower cost housing

#### **Step 3 – Planning authority to assess potential future supply through established housing land supply**

#### **Step 4 – Consider the distribution and sources of sites and decide whether or not a threshold is appropriate**

#### **Step 5 – Derive an initial target (% and number) of affordable housing units**

- Where appropriate adapt percentage target to reflect different needs and market circumstances in the local authority area
- Form an initial view on willingness to accept alternative contributions equivalent to a percentage requirement.

#### **Step 6 – Establish resource implications of using planning policy to require a contribution to affordable housing land**

- Assess availability of public funds
- Assess viability of proposed targets in light of any major costs which may be associated with elements of the established land supply (e.g. any known decontamination requirements)
- Revise target as appropriate

#### **Step 7 – Prepare development plan policy**

- Consult with interested parties
- Issue development plan policy or interim development plan policy
- The development plan policy may be supported by detailed SPG or other guidance to developers, landowners and RSLs provided it has been subject to full consultation.

#### **Step 8 – Monitor outcomes**

- Number of consents per different tenures; starts; completions; take-up; contribution to meeting housing need

#### **Step 9 – Review and revise policy as appropriate**

Source: Adapted from Bramley, Satsangi, Dunmore and Cousins in their report on *Good Practice in the Planning System for Affordable Housing – Lessons from England* (unpublished research for Communities Scotland, 2002),

42. Provision of new housing for all market sectors is an Executive priority and the need to negotiate a planning agreement for affordable housing should not be allowed to delay significantly approval of market housing or other development elsewhere on the site. It is good practice for negotiations on planning agreements to be concluded within 4 months after agreement has been reached on other detailed elements of the planning application. Both parties will need to engage positively in order to achieve this. Pre-application discussions regarding all sites, including windfall sites, are of great value in helping to avoid delay in these later stages of development control.
43. Local authorities should take steps to ensure that where a Section 75 agreement is considered necessary, it can be drawn up and agreed as swiftly as possible. To help achieve this, it will be good practice to have model agreements available as a starting point. Examples of authorities who have made use of planning agreements to secure contributions to affordable housing include Aberdeenshire and the City of Edinburgh. See Better Practice Examples B and C for more details. A draft agreement may be drawn up by either the developer or the local authority but this should be done within a timescale acceptable to both parties.

#### **Negotiating Developer Contributions**

44. Calculating appropriate percentages of affordable housing element for any development plan policy, and for individual sites, must take into account an understanding of residual land value. Whether non-market housing is to be provided as part of the development, or part of the site is to be purchased by an RSL at a value lower than market housing, this will affect the price which can be paid for the land and will require to be negotiated with the site owner. Early dialogue between landowners and developers and the Council should be established wherever possible.
45. Where a contribution for affordable housing is required through a local plan or interim policy, developers should indicate as part of their planning application how they will deliver the affordable housing element. In many cases a partnership with an RSL will be desirable, but the most appropriate mechanism will depend on the partnership arrangement, the nature of the site and the nature of the project.
46. In some cases there is also a requirement for the developer to either provide, or make a financial contribution to, other major supporting and infrastructure elements such as new schools or expansion of existing schools, drainage, road improvements. On particular sites there may be high costs to remediate contamination or address poor ground conditions. Where the developer can demonstrate that there are exceptional costs, the requirement for affordable housing may need to be reduced to ensure the cumulative burden on the overall development does not make site development unviable.
47. SPP 3: *Planning for Housing* indicates that Communities Scotland, and local authorities where the administration of development funding has been

transferred to them, may make subsidy available only for sites which form part of a strategic programme. Where the site is not part of a strategic programme or where the provision of subsidy is not agreed or available, alternative means of providing affordable housing should be considered by the developer in discussion with the local authority. Alternatives may for example include market housing at discounted prices or exceptionally commuted payments (see paragraph **48**). Units provided by each of these means should be taken by the local authority to count towards meeting the overall need for affordable housing in the area and through monitoring the local authority should record how many units of each type are provided (see also paragraph **56**).

#### **Commuted Payments and Off-Site Provision**

48. Particularly on larger housing sites, the need to provide affordable housing should be met as part of an integrated development, and paragraph **38** indicates the value at which any on-site area of land would be transferred – i.e. based on its value for affordable housing. However, where sites are unsuitable for affordable housing, for example, because of location or local circumstances, developers may offer to provide the contribution on another site within their ownership or in some cases provide a commuted sum, as long as the proposed alternative will help to meet an identified need in the same housing market area.
49. Where it is agreed that an alternative to a contribution of land within the proposed development site is acceptable, the developer will provide either land or homes or a commuted payment of a value equivalent to the cost of providing the percentage of serviced land required by the policy. Advice on valuation is included in paragraph **38**.

#### **Retention of Affordable Houses**

50. Occupancy conditions will not be necessary where a charitable RSL is responsible for the management of rented housing. Shared equity schemes may provide another means of retaining housing as affordable. For other developments local authorities should consider whether new affordable housing should remain affordable in the future and if so, the most appropriate means to achieve it. Planning conditions or planning agreements may be used, where justified, to ensure that the affordable housing is occupied only by households falling within those categories of need defined by the local authority through its local housing strategy. Better Practice Example C refers to the use of planning agreements to regulate future sale of discounted sale dwellings.
51. Local authorities should take care when drawing up conditions or planning agreements to ensure lenders' interests are fully considered. This could include clauses for lenders to be able to repossess houses or flats where occupiers have defaulted on the mortgage. Additionally planning authorities should also consider the practical implications for monitoring and enforcing such conditions.

## DESIGN

52. *Designing Places* sets out the Executive's policy statement on design and quality in new development. This reinforces the importance attached to improving the quality of the built environment. Scottish Planning Policy 1 (SPP 1) makes it clear that the quality of the design of a proposed development is a material consideration in determining the outcome of a planning application.
53. The Executive's policy therefore is to improve the external design of future new housing developments, not just the individual dwelling units but also their layout. Supplementary advice is included in PAN 67: *Housing Quality*. Provision of high quality, well-designed homes is a key requirement of all new housing developments, including affordable housing. Environmental sustainability and ease of long term maintenance are important aspects of quality.
54. RSLs providing affordable housing generally receive funding from Communities Scotland or the local authority where the administration of development funding has transferred to them. As a condition of this funding, the design of the houses and site layout should comply with the criteria of the Housing for Varying Needs design guidance. Local authorities may also wish to promote particular standards, for example lifetime homes, to help ensure that homes meet long-term needs. The external appearance of housing developments is controlled through the planning system. However, Communities Scotland considers that affordable housing should not warrant any compromise on the standards of design or build quality and external appearance.
55. A further consideration is the need to ensure the overall visual integration of affordable and market housing. Different tenures of housing are becoming increasingly integrated partly due to Right-to-Buy and stock transfer and there should not be a significant outward difference in the style of units or layouts between affordable and market housing. Affordable housing should wherever possible be indistinguishable from the general mix of other houses on the site in terms of architectural quality and detail.

## MONITORING AND REVIEW

56. To retain confidence in development plan policies that seek contribution of affordable housing, it will be important that there is regular monitoring by local authorities of progress as well as updating of the housing needs assessment, as in Box 1. To maintain confidence in the process, implementing the policy should also be open with local authorities engaging and involving key stakeholders. As part of their policy commitment to affordable housing, local authorities should aim to publish regular progress reports as part of the monitoring process. Monitoring should record how many units of affordable housing or different sizes and types have been delivered, the number of market housing units

delivered, the transfer value of sites and grant payable. Even where circumstances change, the detailed components of the policy should not be adjusted, including the affordable housing or financial contribution, until the proposed changes have been subject to full consultation and subsequent approval by the Council. The Scottish Executive will also consider the regular collection of data in order to monitor this advice.

**NOTES**

57. Further copies of the Advice Note can be obtained by telephoning 0131 244 7543. A copy of this and other PANs and SPPs are available on the Scottish Executive website at [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning)

## ANNEX

The following examples are provided as illustrations of what has been achieved to date by several local authorities and include elements of better practice.

### **BETTER PRACTICE EXAMPLE A**

#### **AIDING DELIVERY OF AFFORDABLE HOUSING:**

#### **RURAL PARTNERSHIP FOR CHANGE AND 'LOCAL HOUSING DEVELOPMENT FORA'**

##### **Introduction**

The Rural Partnership for Change Highland Pilot (RPfC), established by the then Minister for Housing and Communities in 2000, was given the remit of looking at new and innovative ways of addressing the shortage of affordable housing in rural communities. The pilot focused on three key strands of work: identifying areas of housing-related stress; developing and implementing sustainable solutions; and learning lessons to apply to community planning and single housing planning processes.

##### **Developer/partners**

The partnership was actively promoted by Highland Council, the former Scottish Homes and local housing associations and trusts. The role of planning has been fundamental, particularly as the Highland Structure Plan gives priority to affordable housing and the need to find practical solutions. Planning information and the experience and knowledge of local planning and development control officers are seen as key to identifying need and developing potential solutions.

##### **Outputs**

The RPfC established six local housing development fora across Highland, bringing together those involved in developing housing, including housing agencies, community planning partners, planners from both the development control and development plan teams, and representatives from the Scottish Rural Property and Business Association, SEPA, SNH, Scottish Water and local economic agencies. Individual developer representatives have been invited to discuss particular projects. The purpose of the fora has been to facilitate joined-up working and take a proactive approach to identifying development solutions to local problems.

The Local Housing Development Fora focus on identification of housing investment priorities, early identification of the most suitable and economic sites for affordable housing and overcoming any development constraints. They also inform the preparation of local plans. One of the main benefits of the fora is to enable discussion and sharing of information between RSLs and the planning authority to help avoid housing associations undertaking abortive work on sites which are not appropriate for housing development.

For further information about the Rural Partnership for Change and local housing development fora, contact Allan Maguire, Highland Council, 01463 702528

## **BETTER PRACTICE EXAMPLE B**

### **ABERDEENSHIRE COUNCIL APPROACH TO PLANNING AND AFFORDABLE HOUSING: NEGOTIATING DEVELOPER CONTRIBUTIONS**

#### **Introduction**

The Aberdeenshire Local Plan (finalised version August 2002) included an affordable housing policy which states that 'All development, and in particular housing development, can support a strategy to provide more affordable housing'. This has allowed the authority to seek affordable housing contributions from both residential and non-residential developments. The Council appointed a planning gain co-ordinator to coordinate negotiations with developers.

#### **Implementation**

Having one member of staff dealing with developer contributions has the advantage that there is an experienced point of contact within the Council, and developers are encouraged to begin discussions with the planning gain co-ordinator before buying land. This helps to speed up negotiations on individual developments and ensure that Section 75 agreements can be concluded as swiftly as possible.

The Council's policy sets an average percentage contribution to affordable housing to be provided on residential sites, the percentage varying from settlement to settlement depending on need within each area. Developers are encouraged to enter into discussions with Communities Scotland or an RSL operating in the area of the development. Alternatively the developer may provide the required percentage of the serviced developable land for the Council or its agents to develop for affordable housing. A further alternative is for the developer to make a financial contribution equivalent to the housing land value on which the required amount of affordable housing would be built. These funds are then used to help provide affordable housing within Aberdeenshire.

With non-residential developments the Council uses a formula to calculate the affordable housing requirement based on floor area and expected occupancy. Contributions are therefore related both to the scale of the development and the expected number of employees, with high occupancy uses such as supermarkets expected to make larger contributions to affordable housing than low occupancy uses such as warehouses. Contributions are in the form of commuted sums, using the standard figure applied to affordable housing contributions from residential development. These are targeted at supporting delivery

#### **Outputs**

Aberdeenshire Council has had some success in applying the policy to commercial development as well as residential development and recently concluded agreements for commuted sums for affordable housing from a supermarket in Fraserburgh, a warehouse development in Peterhead and an industrial development in Portlethen.

For more information on the approach taken to negotiating developer contributions in Aberdeenshire, contact Stuart Robertson, Planning Gain Co-ordinator, Aberdeenshire Council Tel 01330 825518

## **BETTER PRACTICE EXAMPLE C**

### **CITY OF EDINBURGH COUNCIL APPROACH TO PLANNING AND AFFORDABLE HOUSING: PROCESS OF POLICY DEVELOPMENT**

#### **Introduction**

City of Edinburgh Council (CEC) introduced their affordable housing policy in response to a critical shortage of land for affordable housing. In 1999 the Council commissioned a housing needs assessment, published in 2000, which provided evidence that significant housing needs were not being met (note that this pre-dates the introduction of local housing strategies). Because of the strength of the Edinburgh housing market, housing associations were finding it increasingly difficult to secure sites for new development. Evidence from the housing land audit demonstrated that despite strong house building activity, completions in the social rented sector were declining. Meanwhile, a number of major redevelopment opportunities were coming forward including a potential 10,000 new dwellings at the North Edinburgh Waterfront. The Council was keen to ensure that these new developments would include an element of affordable housing.

#### **Brief history of development of the policy**

In light of the housing needs assessment and estimates of new housing demand expected to emerge between 2000 and 2010, CEC concluded that an additional 9,000 affordable homes were needed by 2010. A draft policy on affordable housing was published in November 2000 which required that a proportion of units within new housing developments should be for affordable housing. There was a period of consultation with stakeholders over the period to February 2001, following which some changes were made to the policy, including the possibility of off-site provision and commuted sums in exceptional circumstances.

The policy was finalised in October 2001, and tested at inquiry on the North East Edinburgh Local Plan (NEELP) alteration. The Reporter's findings on the inquiry were received in summer 2002, after which the Council made further amendments to the policy. The second NEELP public inquiry took place in early 2003. Following this the Council was able to proceed to adoption of the policy.

The Council also prepared a separate detailed Guidance Note on implementing the policy. This set out the mix of affordable housing which the Council seeks to achieve. It also defines the different types of affordable housing tenure the Council would accept, specifies the criteria for being given priority for affordable housing and provides advice on the availability of subsidy and the level of commuted sums.

**Planning agreements**

On sites to which the policy applies, the Council and the individual developer enter into a Section 75 agreement. Planning agreements have been used for example to specify the number of units within the larger development to be developed as discount sale dwellings for affordable housing. The agreement specifies that the proprietors will make reasonable endeavours to market the discount sale dwellings to eligible occupiers for an agreed period of time, forwarding details of interested parties to the Council for approval. If by the end of this period missives have not been concluded with an eligible occupier for each of the discount sale dwellings, the developer is entitled to notify the Council and then dispose of any remaining units on the open market. Planning agreements have also been used to deal with subsequent sale of the discounted dwellings, regulating the future disposal of any dwellings which are initially sold at less than market value.

**Outputs**

The planning authority has observed a gradual acceptance of the policy among developers, with an increasing number of planning applications being submitted that already include an affordable component. Recent figures (late 2004) show that over 2,500 new affordable homes had been secured through the policy since its initial introduction in 2000, with more than 1000 additional units anticipated through pending planning applications, achieving on average around 16 to 18% affordable units on eligible sites to date.

**Conclusion**

The successful introduction of this policy is largely due to genuine joint work between the Council's planning authority and housing department, and the policy being grounded in thorough research and information on the dynamics of the housing market and housing development finance. The Council also attached great importance to the quality of consultation, recognising the potential impact of the policy on the activities of developers and social housing providers.

For more information on CEC's affordable housing policy, contact Stephen Hall, City of Edinburgh Council, 0131 469 3598

## **BETTER PRACTICE EXAMPLE D**

### **MILLER HOMES / LOTHIAN HOUSING ASSOCIATION DEVELOPMENT AT GREAT JUNCTION STREET/CABLE WYND, LEITH:**

#### **BROWNFIELD SITE DEVELOPMENT INCLUDING AFFORDABLE DWELLINGS**

##### **Site**

The site is the former Scotmid building on the corner of Great Junction Street and Cable Wynd in Leith. Miller Homes entered into a joint venture with Scotmid to redevelop the site for a mixed residential and commercial use. The Council's affordable housing policy (see Better Practice Example C) required that the joint venture company provide part of the site for affordable housing as a condition of the planning consent for the units for market sale on the site and the affordable element was the subject of a Section 75 agreement.

Scotmid-Miller approached a number of housing providers including Lothian Housing Association (HA), with a view to transferring the land for 10 units at nil value. Lothian HA (a wholly owned subsidiary of Castle Rock HA) entered a partnership with Scotmid-Miller to provide the affordable units, agreeing to complete the affordable housing element within the timescales for the overall private housing completion. The site for the affordable dwellings was transferred to Lothian HA in August 2003; construction commenced in September 2003 with completion in October 2004.

##### **Construction**

The scheme incorporates car parking at ground floor level with flatted residential development above, facing onto the site boundaries, and creating a landscaped deck in the space to the rear. The main part of the site developed by Scotmid-Miller comprises 77 flatted dwellings for sale and commercial space. Although two separate planning permissions were granted for the market and affordable elements, the design of the entire site aims to create continuity of external layout.

Given this proposed layout and design, it was clear that a coordinated construction programme for the affordable and market elements would be beneficial. Lothian HA agreed to enter into a direct building contract with the same contractor developing the rest of the site for Millers. This helped to avoid delays to the delivery of the market housing.

##### **Funding sources**

There was no subsidy available through the development programme to deliver social rented housing on this particular site. Lothian HA was therefore selected to provide mid rent tenure with no grant funding. Although Lothian HA is not a registered social landlord, the Council approved its status.

A small amount of additional funding was required to assist the affordable element of the project. This was provided through a commuted sum from another housing development where an affordable housing contribution had been required but was not

provided on site. The final costs of the affordable housing project within the Great Junction Street development are estimated at £710,000. £660,000 has been raised by Lothian, using existing financial arrangements with Dunfermline Building Society, with the remaining £50,000 contribution through the Council.

#### **Details of affordable housing element**

The affordable units consist of five 1-bedroom flats and five 2-bedroom flats forming part of the overall flatted development. The affordable units are now available for rent – ranging from £380 to £455 per calendar month. Priority is given to people who are existing tenants of the Council or a housing association or on a waiting list for a Council or HA home; people with a local connection, e.g. family living in the area; or people employed in one of the public services. In each case, the properties are currently only available to people who have a salary of up to £19,300 for single people, or £24,700 for families.

#### **Conclusion**

Lothian HA now owns the completed flats and manages them according to the eligibility criteria set out by City of Edinburgh Council. Lothian HA has developed a web site called 'homeadvantage' in order to advertise these and other affordable properties, and the Council's webpage now has a link to the homeadvantage site. The project also demonstrates the practical use of a commuted sum to support delivery of dwellings which will contribute to the supply of affordable housing within the Edinburgh housing market.

## **BETTER PRACTICE EXAMPLE E**

### **TULLOCH HOMES / CAIRN HA DEVELOPMENT AT DALFABER, AVIEMORE, HIGHLAND PHASED DEVELOPMENT WITH PRIVATE HOUSING, HOUSING FOR RENT AND LOW COST HOME OWNERSHIP**

#### **Site and policy context**

This development on the north side of Aviemore is an example of a private house builder and a housing association working in partnership to provide 52 affordable units, including 30 rented dwellings for Cairn Housing Association and 22 low cost dwellings for sale to first time buyers. The development has been led by Tulloch Homes Express and Cairn HA

The site comprises Phases 2 and 4 of a larger development by Tulloch Homes. The site was initially purchased by Tulloch Homes then transferred to Tulloch Homes Express Ltd. Through the Aviemore North Development Brief (February 2000), Highland Council indicated their intention to secure an appropriate proportion of plots for affordable housing. Within the overall site masterplan the Council negotiated an affordable housing requirement of 50%.

#### **Construction**

The whole development provides a mix of affordable and private housing, and the design principles have been based around integration and shared amenity irrespective of tenure. The Masterplan for the whole site indicated that the affordable housing element would be provided on the basis of 50% rented, 50% low cost home ownership dwellings. The rented properties have a district heating system, helping to address fuel poverty.

#### **Funding sources**

The housing association element of the development was funded through £1.7m Communities Scotland grant combined with £588,350 private finance raised by the housing association. Communities Scotland also provided more than £200,000 grant funding to enable the low cost home ownership dwellings to be delivered. This was in the form of GRO grant, which allowed the developer to sell at a reduced value to a set client group.

#### **Details of affordable housing element**

Phase 2 (the social rented units) has been completed and tenants have taken up occupancy, while Phase 4 (the GRO sale properties) is under construction in late 2004.

Munro Place, the Cairn project has been specifically designed to meet the needs of local people in Aviemore, where private rented property is very scarce, mainly as a result of the buoyant holiday home market. The Cairn project is set out in two courtyards of 15 units each, providing a mixture of flats, single and two storey housing in each. The design of the properties and the environs has reflected existing local

features such as porches, roof pitches and stone walling, to blend in with the surrounding environment. All the units have full disabled access and two of units have been specifically adapted for people with special needs.

The housing for sale under the GRO sale scheme is also a mixture of 1, 2 and 3-bed units, comprising villas, bungalows and cottage flats and is designed to complement the adjacent mainstream private development, so the low cost housing blends in well in terms of design and density.

The GRO sale properties are sold at fixed prices and have been marketed by the Council to existing local authority tenants and those on their waiting list who have expressed an interest in housing to buy. The aim is to support economic development in Highland by enabling first time buyers on modest incomes, young people/families to gain access to the property market in their local area. The range of property sizes is designed to assist older people as well as people with disabilities – 2-bed bungalows have attracted interest from visually impaired and movement restricted people – accommodating a range of needs not normally addressed by the private market.

### **Conclusion**

The project is a good example of collaborative working between Communities Scotland, Highland Council, Tulloch Homes Express and Cairn HA. The inclusion of the affordable housing element was based on housing need and shared goals, rather than strict percentages, which has resulted in a voluntary mixed development with various unit sizes which addresses the affordable and private markets. The private sales at Dalfaber have been a huge success, with resales significantly above original sales prices, making the GRO sales even more important.

## GLOSSARY

**Affordable housing:** Broadly defined as housing of a reasonable quality that is affordable to people on modest incomes. In some places the market can provide some or all of the affordable housing that is needed, but in other places it is necessary to make housing available at a cost below market value to meet an identified need with the support of subsidy.

**Demand:** The market expression of the desire for housing. It is a compound of needs and aspirations and can be satisfied either by existing housing or by new housing requiring additional land provision.

**Effective housing land supply:** The part of the established housing land supply that is expected to be free of development constraints in the period under consideration, and will therefore be available for the construction of housing.

**Established housing land supply:** The total housing land supply – including both constrained and unconstrained sites. This will include the effective housing land supply, plus the remaining capacity of sites under construction; sites with planning consent; sites in adopted local plans; and other land and buildings with agreed potential for housing development.

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