

AFFORDABLE HOUSING SUPPLEMENTARY PLANNING GUIDANCE

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AFFORDABLE HOUSING

SUPPLEMENTARY PLANNING GUIDANCE

1. This guidance has been produced to support the Highland Council Development Plan, consisting the Structure Plan and Local Plans, in respect of Affordable Housing policy. Supplementary planning guidance is intended to expand on policy or provide further details on Development Plans. Supplementary guidance is used to support statutory development plans, not as an alternative.

CONTEXT

1. **Scottish Planning Policy 3 (SPP3) Planning for Housing and Planning Advice Note 74 (PAN 74): Affordable Housing** offer the most recent national guidance on the role of planning authorities in the provision of affordable housing.
2. SPP3 indicates that the provision and retention of affordable housing is a legitimate planning concern. Clear guidance must be given on what constitutes affordable housing and the appropriate mechanism for securing it. Policies may provide for the retention of affordable housing for successive, as well as the initial occupants, and seek to reserve such properties for people falling within particular categories of need. SPP3 also encourages the development of mixed residential communities with a range of house types and broadly defines affordable housing as housing of a reasonable quality that is affordable to people on modest incomes. Suitable delivery mechanisms include the selective use of planning conditions, Section 75 and other Legal Agreements and through partnership working with private developers, for example, by promoting land in public ownership or schemes that benefit from grant support.
3. The Council's policy approach to affordable housing provision is set out in Highland Structure Plan Policy H5 (below) and supplemented by specific policies in the more recently adopted Local Plans.

Policy H5 Affordable housing

The Council will, in association with other housing agencies, identify areas in Local Plans where there is a demonstrable need for affordable housing. Section 75 and other mechanisms will be used to secure developer contribution where justified. Affordable housing secured as part of a larger development should not be of significantly higher density or lower quality.

NEEDS EVALUATION

4. Studies of housing need and affordable housing requirements have been carried out across the Council area as part of the Local Housing Strategy process (Highland Housing Strategy 2003 – 2008). The Council commissioned an independent Highland wide housing needs assessment (Highland Housing Needs Assessment 2003), which projected a shortfall in the supply of social rented housing in the region of 660-990 homes per annum. Future reviews of the Local Housing Strategy will continue to identify the overall affordable housing needs in Highland, and demonstrate how the Council intends to deal with it. The outcomes of this work will be brought forward as part of The Council's Highland Wide Local Development Plan and Strategic Housing Needs Assessment.
5. Assessment of housing need has been added to by local housing needs surveys in communities where there has been limited existing statistical information.
6. Structure Plan Policy H1 (Housing Allocations for Areas 1998-2017) sets out anticipated housing requirement figures, which for the period to 2007 suggested the need for local plans to allocate sufficient land for an average of 1,360 new homes per annum across Highland. This figure is broadly consistent with historical completions, although more recent figures indicate increased demand and supply..
7. The Council is currently undertaking a review of the Housing Needs Assessment information to inform both the forthcoming Local Housing Strategy and the Highland Wide Development. This work will produce a detailed analysis of the components of current housing need across Highland as well as projections on future levels of need, based on assumptions on population, household and economic trends for the area. This will reflect the anticipated growth of the population and consequent increase in demand for housing. This work will replace the existing Structure Plan projections in this regard.

DEFINITION OF AFFORDABLE HOUSING

8. Affordable housing can be 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.

The Council accepts the following categories of development as affordable:

- **Social rented accommodation** - owned and/or managed by a Registered Social Landlord (RSL) required to meet bona fide local needs by their charter from the Housing and Regeneration Division of the Scottish Government.
- **Approved private rented accommodation** - owned and /or managed by a private sector landlord to approved management and maintenance standards with equivalent to Registered Social Landlord rents.
- **Low cost owner occupation** - which can be met in a variety of ways subject to negotiation of Agreements providing for occupants to be drawn from target client groups, such as existing social tenancies or approved waiting list applicants. Low cost home ownership is housing which is provided at a price substantially below open market values. Low cost owner occupation can be delivered by one or more of the following:
 - **shared ownership**, accommodation where occupiers may purchase part of the property (usually 25%, 50% or 75%) and rent the remainder from a Registered Social Landlord or alternative approved landlord. Occupiers have the right to buy further 25% tranches of the equity up to and including 100%.
 - **shared equity (LIFT)** model where occupiers may purchase part of a freehold (up to 80%) and a Registered Social Landlord retains the remaining share. The owner generally pays between 60 and 80% of the price of a property with the remainder held by a Registered Social Landlord using grant funding from the Housing and Regeneration Division of the Scottish Government. The Registered Social Landlord as well as the owner will benefit from any equity gain when the property is sold.
 - **subsidised home ownership**, possibly involving public sector subsidy to developers (such as the Housing and Regeneration Division of the Scottish Government GRO grant or similar), with clawback mechanisms applying to the owner-occupier for a proportion of any increased value accruing in the event of early disposal; or
 - **discounted serviced plots or house sale prices** that are offered to qualified persons directly by the landowner or developer concerned.
 - **unsubsidised Low Cost Home Ownership or serviced plots** – other owner occupied housing may be accepted where the Council and a developer agree this type of housing meets an identified substantial housing need, e.g. discounted sales by a developer with restricted initial and subsequent sales of the homes by Section 75 Agreements or Deed Restricted Housing. Also discounted serviced plots that are offered to qualified persons directly by the landowner or developer concerned may prove appropriate. Each case will be required to be considered on its merits with regard to the particular need of the community.

AFFORDABLE HOUSING POLICY

9. The affordable housing policy will apply to all planning applications for residential development and to any other planning application on land allocated for housing use within the Local Plan.
10. An affordable housing contribution is currently required from all planning applications for 10 or more houses throughout most of the Highland Council area.
11. In Wester Ross, the Local Plan sets the threshold for an affordable housing contribution to be for all housing proposals of 4 or more units. This was to reflect the lower rates of development in that area. The emerging Local Plans for West Highland & Islands and Sutherland also set out a requirement for all proposals for 4 or more house units to make an affordable housing contribution.
12. To prevent the subdivision of larger plots, where an application is made for less than the relevant threshold (that is, for less than 10 or 4 houses), developers may be expected to provide a contribution in proportion to the number of units which the site would be expected to accommodate at density levels consistent with the existing settlement pattern. A Section 75 agreement (or other mechanism) will be required to ensure that any further development on the site will include an appropriate proportion of affordable housing.
13. In line with Planning Advice Note 74, The Council expect the level of affordable housing to be a minimum of **25% of the total number of houses proposed**. A higher level of contribution **may** be expected in areas where high levels of demand exist and land supply is restricted. These higher levels could be identified through individual Local Development Plans or site specific Development Briefs.
14. The affordable policy will not be applied retrospectively to a site which had full or outline planning consent or was the subject an approved masterplan or development brief prior to the policy coming into effect (Policy H5 Affordable Housing, Structure Plan March 2001). If a revised detailed application is submitted which seeks to alter the number of units specified in an outline application which pre-dated the policy, in general terms if the application is for an equal or smaller number of units then the policy will not be applied. If, however, the application is for a greater number of units then it will be treated as a new proposal and the policy applied. Revised planning applications and those for renewal of planning permissions will be subject to the provisions of the policy.
15. The Council will allocate land within Local Plans specifically for affordable housing. Generally these sites will be within the ownership of a social housing agency or where agreement has been reached with a private landowner. The use of compulsory purchase orders, however, may be required to support the delivery of social rented housing. The Council will seek to work with major landowners to identify opportunities to convert surplus properties or develop new housing.
16. Open market housing schemes for the elderly generally meet the requirements of the more active elderly population and as such can be seen to be addressing general housing needs, not affordable housing needs. The Council will continue to seek the

provision of a wide range of accommodation for elderly people and recognise that it will not be appropriate to require an affordable housing contribution from some types of specialist accommodation, for example, nursing homes or other residential institution. The Council will consider each proposal on its merits and will seek a formal view on applications of this nature from its Social Work Service. Registration with the Scottish Care Commission will form a key aspect of consideration of any application. However, where proposals are adjudged to provide for open market housing, these will be subject to the affordable housing policy.

17. If as part of a proposal an existing building is to be converted or subdivided and the number of new units created as a result is 10 or 4 or more (whichever applicable) then the policy will be applied. Only the additional units created will be the subject to the affordable housing requirement.
18. The Council's preferred method of delivery will be through the use of a Section 75 agreement unless the developer has legally agreed to enter into a contract with a housing association prior to the determination of the planning application.

HOUSING LAND – USE FOR OTHER PURPOSES

19. Where land allocated for housing or housing expansion is subject to proposals other than that indicated within the local plan the affordable housing policy will still apply. The affordable housing contribution will be calculated in relation to the notional number of units capable of being developed at density levels consistent with the existing settlement pattern. Where partial development of an allocated site is proposed, on-site provision on the remainder of the site may offer the Councils preferred form of delivery, subject to the continued suitability of the site for residential use. If this is deemed unacceptable then a sequential approach, indicated later in this document, will be taken to the form of delivery. Where the full extent of the allocated site is utilised by the proposal the contribution will be either off-site provision or a commuted sum.

MECHANISMS FOR SECURING AFFORDABLE HOUSING

20. Developers are encouraged to contact the Council at an early stage to discuss the affordable housing requirement for their site and agree an approach to delivery.
21. A **sequential** approach will be applied to the delivery of affordable housing, in the following order:
 1. a) the provision of affordable housing **on-site**
or
b) transfer of an area of serviced land **on-site**
 2. a) the provision of affordable housing **off-site**
or
b) the transfer of an area of serviced land **off-site**
 3. Commuted Payment

22. The practical difficulties of managing the delivery of single affordable units have been highlighted by both the private and public sector. A variation of the sequential approach for such smaller schemes is set out below:-

1. Transfer of an area of serviced land on-site (RHOG plot(s))

2. Transfer of an area of serviced land off-site (RHOG plot(s))

3. Commuted Payment

23. **1. On site provision**

24. Where affordable housing is being provided on-site the units will either be built by or transferred to an RSL with the exception of discounted for sale, unsubsidised houses, student accommodation and approved private rented accommodation. In such circumstances care should be taken to integrate the different parts of the development. The affordable houses should be similar in design and materials to the development of which it forms part – the objective will be that it is not possible to tell the different tenures apart from the external appearance of the houses. The whole development should be completed within a similar timescale unless otherwise agreed and the land transferred for affordable housing should not be subject to any particular development constraints.

25. Where a Registered Social Landlord, to be nominated by the Council, is involved developers should enter into partnership / discussion with them at an early stage to ensure that the development will provide the type and size of affordable housing required to meet the needs in the area and that the Housing and Regeneration Division of the Scottish Government funding requirements are met.

26. The developer will be required to build an agreed number, type and mix of affordable housing units on site (to *Housing for Varying Needs* standards issued by the Housing and Regeneration Division of the Scottish Government for subsidised sale or rent through an approved Registered Social Landlord. The housing must be sold at a price equal to the the Housing and Regeneration Division of the Scottish Government benchmark costs in force at that time (less Registered Social Landlord on costs). Where the affordable element is to be delivered by the developer deadlines must be set for the delivery of the affordable housing relative to the timescale of delivery of the private housing.

27. Alternatively the land for the affordable housing element can be transferred to the Council or a RSL for them to develop. Developers will agree to transfer an area of serviced land for a valuation based on affordable housing only (as agreed by the District Valuer or an agreed chartered valuation surveyor) to The Council or an approved Registered Social Landlord. The valuation will be the residual valuation based on the Housing and Regeneration Division of the Scottish Government benchmarks less development costs.

28. **2. Off-site provision**

29. a) In cases where on-site provision is unacceptable, the Council may be willing then to accept the provision of affordable housing off-site or the transfer of an area of serviced land off-site. The judgement as to whether off-site provision is acceptable will be based on a number of factors including the desire to achieve balanced communities, the individual site circumstances in terms of the location and accessibility and any difficulties associated with its development.
30. If the Council is prepared to accept the provision of the affordable housing contribution off-site the developer will be required to build an agreed number, type and mix of affordable housing units on another site in the community that is under their control (to *Housing for Varying Needs* standards issued by the Housing and Regeneration Division of the Scottish Government) for subsidised sale or rent through an approved Registered Social Landlord. The housing must be sold at a price equal to the Housing and Regeneration Division of the Scottish Government benchmark costs in force at that time (less Registered Social Landlord on costs). Where the affordable element is to be delivered by the developer deadlines must be set for the delivery of the affordable housing relative to the timescale of the private housing. For the avoidance of doubt any provision of affordable housing off-site will be in addition to the affordable housing requirement relating to the alternative site, or:
31. Alternatively the land for the affordable housing element can be transferred to the Council or a RSL for them to develop. Developers will agree to transfer an area of serviced land for a valuation based on affordable housing only (as agreed by the District Valuer or an agreed chartered valuation surveyor) to The Council or an approved Registered Social Landlord

3. Commuted payments

32. Commuted Payments may be acceptable only if there are no acceptable sites brought forward after following the sequential tests above. These payments will be used to enable off-site provision to make an equal and equivalent financial contribution to an affordable housing accumulator fund managed by The Council to promote the direct provision of affordable accommodation with an approved Registered Social Landlord on other sites in the local housing market area. Income from this source will be identified in the local authority's Strategic Housing Investment Plan (SHIP) The commuted payment should be equivalent to the difference between the value of the affordable housing unit and the value of the equivalent private unit to ensure that the financial impact to the developer is the same as if the developer developed the affordable units on site. Where commuted payments are agreed, they should normally be payable as early as possible in the development to ensure that there is no time lag between completion of the private housing and the supply of the affordable housing.
33. If the Council is unable to attract public funding for the provision of affordable housing within a five year period (from completion of the first private house) in the form of on-site or off-site provision, then the provision in relation to commuted payments will be invoked and the developer will be entitled to develop the remainder of the site for non-affordable housing.

34. Detailed proposals for each development area/housing site will be the subject of advice from the District Valuer or an agreed chartered valuation surveyor to ensure that the pro rata financial burden is comparable and cost-neutral for all forms of provision. Landowners and developers will not be permitted to evade the terms of this policy by artificial sub-division of landholdings since the terms of the Section 75 Agreement will be made binding on successive proprietors. Agreements will require the transfer of land, erection of dwellings or financial payments for affordable housing purposes to be completed to a similar time scale to the non-affordable housing unless otherwise agreed with the Planning Authority.
35. An account for affordable housing commuted payments has been set up. The account is ring fenced for spend in assisting in providing affordable housing and meeting housing need in the local housing market area. Where a contribution has been made through a legal agreement, such as a Section 75, developers will be able to reclaim any money not invested in assisting in providing affordable housing after 5 years but before 6 years from the date the contribution was made.

TYPE, DESIGN AND LAYOUT OF AFFORDABLE HOUSING

36. The tenure split of affordable housing required will be informed by Housing Needs Assessment and the Local Housing Strategy. Outwith these assessments the type of affordable housing required will be determined on a site-by-site basis and developers are encouraged to enter into early discussions with the Council's Housing and Property Service who will advise on the type of affordable housing required.
37. The affordable housing component should be well-integrated into the overall development and have good linkages to surrounding services including public transport and usable public open space. The range of house types included within the affordable element should reflect the composition of households in need identified through the Local Housing Strategy, common housing register and current local housing needs surveys. A reasonable proportion of the affordable element is likely to be composed of family housing.
38. There should be overall visual integration of affordable and market housing. 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.
39. Affordable housing for rent should be concentrated in small groups. On larger developments the affordable housing should be dispersed throughout the development or in any event in clusters of no more than 15 rented dwellings.

RETENTION OF AFFORDABLE HOUSING

40. The retention of affordable housing stock within this sector is a factor that also requires consideration when securing affordable housing as a contribution from development proposals. Housing Associations will continue to provide the main mechanism for the delivery of affordable housing developments and the charitable

status of many of these organisations is important in securing the long term availability of affordable housing.

41. Pressured Area Status - Parts of the Highland were designated as “Pressured Areas” on 15 November 2005, this means that tenants who started their current tenancies on or after 30 September 2002 in the designated “Pressured Areas” have their Right to Buy (RTB) suspended for five years until November 2010. Pressured Area status applies to most of Highland, but does not apply in areas of lower demand, Caithness; Sutherland and identified regeneration areas throughout Highland. The Council is to re-apply for Pressured Area Status in 2010.
42. The Scottish Government’s Shared equity schemes enable people to buy a home in partnership with a registered social landlord. An owner generally pays between 60 and 80 per cent of the price of a home – with the remainder held by a registered social landlord using a Government grant.
43. The New Supply Shared Equity scheme and the Open Market Shared Equity Pilot scheme aim to help people on low incomes who wish to own their home but who cannot afford to pay the full price for a house. They are part of the range of assistance from the Scottish Government under its Low-cost Initiative for First-Time Buyers, LIFT.
44. The Scottish Government has announced the intention to end Right To Buy on new build affordable housing and is to review the existing Right To Buy legislation.
45. Low cost home ownership opportunities are also being retained through the application of a rural housing burden to the resale of these properties. The Rural Housing Burden (RHB) retains a pre-emption right to secure the affordability of land bought and the houses then built on it, so that successive local purchasers on modest incomes, who could not otherwise afford to compete on the open housing market, will be able to access a form of low cost home ownership in which the “subsidy” remained locked in forever. Local Housing Associations and Trusts are registered rural housing bodies which means they are allowed to attach Rural Housing Burdens to the title of land sold, the Burden is applicable throughout all of the Highland Council area.

MONITORING

46. It is essential that the policy is implemented and delivers affordable housing on the ground. The Council will monitor this on an ongoing basis and will be reported annually and also through Local Plan monitoring statements and Scottish Government Housing Survey Returns. The numbers of affordable housing provided throughout the year and where agreement has been reached to provide affordable contributions, on site, off site or via commuted payments will be reported. This will assist in future updates of the policy.

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.

Housing demand: The quantity and type/quality of housing which households wish to buy or rent and are able to afford.

Housing market area: A geographical area which is relatively self-contained in terms of housing demand, i.e. a large percentage of people moving house or settling in the area will have sought a dwelling only in that area.

Housing need: Refers to households lacking their own housing or living in housing which is inadequate or unsuitable, who are unlikely to be able to meet their needs in the housing market without some assistance.

Section 75 Agreement: A legal agreement made between the landowner and the planning authority (often with other people) which restricts or regulates the development or use of land. It is normally used to agree and secure developer contributions.

AFFORDABLE HOUSING - DEVELOPMENT APPLICATION PROCESS

- **Local housing strategy identifies housing stressed areas**
- **Local Plan identifies land zoned for housing**
- **Developer appraises sites**

