



**Aberdeenshire Local  
Development Plan 2022**

**Draft Planning Advice Note**

# Aberdeenshire Local Development Plan 2022 Draft Planning Advice - Developer Obligations and Affordable Housing

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## **Background & Purpose of this Planning Advice**

This Planning Advice sets out Aberdeenshire Council and our partners approach to meeting the policy requirement to provide Developer Obligations and Affordable Housing.

The purpose of the Planning Advice is to provide clear guidance on the process for Developer Obligations and Affordable Housing as required in the Aberdeenshire Local Development Plan (LDP) 2022.

Development falling within the Cairngorms National Park Authority (CNPA) proposals will be considered against the CNPA Local Development Plan (CNPA LDP) and its associated Supplementary Guidance on Developer Contributions.

### **Part 1 - Developer Obligations**

#### **1. Policy Basis**

To comply with Policy RD1 Providing Suitable Services, and Policy RD2 Developer Obligations set out in “The responsibilities of developers” section of the LDP 2022, a Developer Obligations package may be required. This will be detailed in a Developer Obligations Assessment Report, carried out by the Developer Obligations Team, which assesses the level of proportional contributions required towards developer contributions and affordable housing.

Requirements in respect of affordable housing are set out in Policy H2 Affordable Housing of the LDP 2022 and Part 2 of this Planning Advice.

#### **2. Reasoned Justification**

The aim of this Planning Advice is to set out the methodology employed in calculating the level of developer obligations which may be required as a result of new development. In order to provide transparency as required by the Planning Performance Framework (PPF), standardised charges and formulae form the framework for calculations dependent on site specific requirements.

#### **3. Evidence**

The Council has attempted to anticipate where the need for developer obligations will arise, but it is not possible to identify this in every case and decisions will be

taken based on the adopted LDP, the proposed development, Local Place Plans (as and when these are produced), Area Plans, the impact on existing infrastructure and facilities, and the tests set out in Circular 3/2012 as set out below. The Settlement Statements and Area Plans set out the key requirements for facilities and likely infrastructure to which development is required to contribute and as and when Local Place Plans are developed, they shall also be considered. However, as circumstances change during the life of the LDP, a living database is kept of all infrastructure requirements, and which is updated as and when further information becomes available on the anticipated impact of development and the Council's Capital Plan, for example as Area Plans, School Role Forecasts and Housing Land Audits are updated.

#### **4. Policy Tests**

Any developer obligations sought must be linked to the specific development and meet the tests set out in Circular 3/2012:

- **Necessary** to make the proposed development acceptable in planning terms.
- **Serve a planning purpose** and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans.
- **Relate to the proposed development** either as a direct consequence of the development *or* arising from the cumulative impact of development in the area.
- **Fairly and reasonably relate in scale and kind** to the proposed development.
- **Be reasonable** in all other respects.

#### **5. What are Developer Obligations sought for, and how will these be assessed?**

Proportional contributions may be sought from all types of development creating new housing units or commercial floor space to address both the direct and the cumulative impact on infrastructure. Development is not expected to account for existing infrastructure deficiencies, but to ensure that any proposed development does not generate additional pressures on existing infrastructure to the detriment of the amenity of existing communities.

Proportional contributions are based on the impact of the development on existing infrastructure and amenity of the settlement in which the development is based. This

also applies to infrastructure which although not located within the settlement, directly serves the development elsewhere.

Infrastructure requirements for each proposal vary, and in some instances, it may be more cost effective for the developer to provide these. If further requirements are discovered through the planning process additional to elements identified through an initial assessment, these will also be considered. These will be based on an individual basis, as each site is considered on its own merits.

## **6. Front Funding of Infrastructure**

Providing infrastructure necessary to allow a development to proceed may require the Council or partners to incur costs while working in partnership with developers, or through front funding of investment but such expenditure to support development requires to be recouped at a later date. This is in line with *Circular 3/2012*, which provides that Local Authorities can recover proportional payments from subsequent developments which benefit from that investment until the costs have been recovered in line with the agreed planning obligation/legal agreement.

## **7. Engagement**

Developers and Landowners are encouraged to engage with the Developer Obligations Team to ascertain the likely level of contribution required and a Developer Obligations Assessment can be provided at any time. The Council encourages early engagement by all developers and landowners and offers a free pre-application advice service which also includes a Developer Obligations Assessment. Once progressed to an application, an assessment will also be carried out for each qualifying planning application by the Developer Obligations Team, through consultation from the Development Management Case Officer.

## **8. Development Requiring Contributions**

Development that creates new housing units or commercial floor space may require a contribution. The Developer Obligations Team establishes where mitigation is required, working with internal and external agencies to ensure evidence is provided to support any required contribution. During the assessment process, each policy test is considered and where all policy tests are met, and sufficient evidence is provided, this will result in a requirement for a contribution.

A summary of the types of development requiring to contribute and possible obligations are outlined below:

- **Residential Development:** All proposals which involve the creation of a new dwellinghouse. Single units will solely be assessed for education contributions, however the sub-division of larger sites into multiple developments of less than 2 units in order to avoid making a contribution towards other elements will not be supported. In cases where multiple related applications may be received, consideration will be given to the cumulative impact of the development and contributions sought for the overall infrastructure impact of the development.
- **Commercial Development:** All development which requires identified local transportation mitigation measures.
- **Other applications:** where the Development Management Service considers the proposal to be of a scale or type of development approach necessary to consult with the Developer Obligations Team.

**Policy Departures** ;There are some categories of development where it has been accepted that full or partial policy considerations will be departed from. These include:

- **Individual House Purchasers.** For residential developments, the Council will not expect the individual purchasers of the completed residential units to have liability for any of the financial contributions which will rest with the developer.
- **Student Accommodation.** As this development will not generate resident children and place an additional burden on the existing schools, education contributions will not be required, provided the planning consent conditions restrict solely to these uses but will be expected to contribute to all other needs. Any proposal to change these types of accommodation into mainstream housing will require a new planning permission, and contribution will be sought at this time (if necessary).
- **Sheltered, Extra Care.** As this development will not generate resident children and place an additional burden on the existing schools, they will not be expected to contribute to education facilities, community or sports and recreation facilities, provided the planning consent conditions restrict solely to these uses but will be expected to contribute to all other needs. Any proposal to change these types of accommodation into mainstream housing will require planning permission, and contribution will be sought at this time (if necessary).

Over 55's accommodation is not sheltered or extra care and does not require permission to change to open market units and as is treated as such. They may be conditioned by the developer by legal burdens, but the Council cannot enforce these, and they can be varied or discharged without the Council's input.

- **Short Term Let Serviced and Holiday Accommodation.** These developments will not be expected to contribute to education and healthcare facilities provided the planning consent is conditioned solely to these uses. Any proposal to change these types of accommodation into mainstream housing will require planning permission, and contributions will be sought at this time (if necessary).
- **Replacement Houses** of a recently occupied dwelling will be exempt from contributions.
- **Town Centre Redevelopment** in the identified regeneration towns of Banff, Fraserburgh, MacDuff & Peterhead, for existing buildings and any brownfield sites within the defined town centre boundaries.
- **Residential Annexe** where conditioned to be ancillary to the main property.
- **Residential unit** above a garage where conditioned to be ancillary to the main property.
- **Temporary caravans.**

In light of the small-scale nature of the development, it is considered fair and reasonable to apply a discount of 80% to the contribution sought for education mitigation for single unit developments, and 60% for developments that propose 2 or 3 units.

## **9. Review of Impact on Infrastructure**

In the determination of any planning permission which is not capable of being implemented, further applications for the renewal of planning permission, including Section 42 applications and updated development proposals, these will require to be reassessed to ascertain the impacts of the development against the most up to date provisions of the LDP and infrastructure data base. This could result in lesser, or new or increased developer contributions. In assessing the need for revised developer contributions, the Council will always take into consideration any developer contribution payments received for the development site in question to

date, or if this causes viability issues then the viability procedure as set out in Schedule 1 of this Planning Advice should be followed.

## **10. Development Viability**

Aberdeenshire Council acknowledges that unforeseen costs can affect development viability and may take this into account dependent upon circumstances. There is a requirement for all developers to undertake a full viability appraisal at the outset of their development which considers all likely costs including developer obligations and affordable housing in accordance with Policy RD2 Developer Obligations and Policy H2 Affordable Housing of the LDP 2022. Aberdeenshire Council cannot consider issues of viability where this has not been undertaken.

For unforeseen costs to be considered, the developer is required to follow the procedure set out in Schedule 1 of this Planning Advice.

## **11. How will Developer Obligations be secured and managed?**

Developer Obligations may be secured through upfront payments under Section 69 of the Local Government (Scotland) 1973, Section 48 of the Roads (Scotland) Act 1984 or a Planning Obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997.

## **12. Upfront Payments**

The applicant must enter into an agreement with Aberdeenshire Council in terms of Section 69 of the Local Government (Scotland) Act 1973.

Where an upfront payment is required, this must be received before planning permission can be issued, the applicant is advised to ensure this is the final matter to be concluded before planning permission is issued.

## **13. Phased Payments & Indexation**

The council will consider phasing payment of Developer Obligations in accordance with the phasing of the development and based on evidenced completions. Phased payments require a legal agreement to set out the terms and conditions of phased payments. The costs of preparation of the legal agreement and their own legal costs, must be met by the applicant. Agreement on the timing of payment will be included in

the legal agreement with the addition of any specific clauses which relate to the proposal. Payments will be index linked in accordance with this guidance and dates as set out in the assessment report with reference to the General Building Cost Index as published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors for the quarter as at the date of agreement of the assessment.

#### **14. Management of Funds**

Contributions, identified individually to each application, are currently held in the Council's balance sheet in a unique account to which notional interest, unless otherwise stipulated, is added on a monthly basis. In the event of a repayment of contribution the interest added will be calculated to reflect, in addition, compounding on an annual basis.

The council undertake to spend contributions received in respect of an appropriate project or projects in line with the detail of assessment within 7 years of the date when the last contribution is paid. In the event of the contribution or part of it not being spent within this time period the contribution or part will be refunded to the applicant or their nominee along with relative interest accrued upon receipt of request for refund.

#### **15. Types of Obligations and the Methodology for Calculating the Required Contribution**

Some contributions throughout this Planning Advice are based on a per-house-equivalent. The figures below calculate the contribution required. A three bed roomed house is taken as a 'standard sized unit (SHUE)'.

- 1 bed = 0.6
- 2 bed = 0.8
- 3 bed = 1 'standard sized unit'
- 4 bed = 1.2
- 5 bed = 1.4
- 6 beds = 1.6

For Planning Permission in Principle applications, where specific details of development are unknown, rates are based on location either per standard house unit, or per square metre (sqm) for commercial/retail premises, however a formula may be

included within the Section 75 agreement to allow the contribution to be calculated based on the final mix proposed or a subsequent assessment undertaken.

All rates as set out in this guidance are correct as of Q1- 2021 and will be reviewed and published on an annual basis in line with the General Building Cost Index as published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors and reviewed every two years to ensure they are in line with actual costs incurred. The published index linked rate for the year the application is submitted will be used in the assessment report.

### **15.1 TRANSPORTATION**

All developments will be assessed in terms of their impact on the transport network and may be required to mitigate these impacts. All developments, where impacts requiring mitigation have been clearly identified, but not undertaken by the developer, will make an appropriate contribution towards local transport infrastructure and/or services related to that development, to ensure that the required facilities/infrastructure provision is in place in time to mitigate the impacts of the development. A mitigation measure to the transport network that can be carried out by the developer will generally be secured via planning condition, and where this is not possible a financial contribution may be sought through a legal agreement.

Transport infrastructure requirements and costs will vary from site to site. Developers are encouraged to contact the Council's Transportation Service as early as possible in the development process to ascertain the likely transport infrastructure requirements that will be sought in order that these can be factored into early site development viability calculations.

### **15.2 EDUCATION**

*When and where do they apply?*

In order to ensure the necessary infrastructure is delivered timeously to meet the required need, mitigation will be sought from all residential development where the primary and/or secondary school roll cumulatively along with other identified development is projected to exceed 90% of the total capacity.

The required additional capacity will be provided by the most appropriate method by either a permanent extension, reconfiguration of the existing building to provide additional classroom space, or through the erection of a new build school. As these

separate methods have differing associated costs, separate rates will be applied. These rates are identified below. If the necessary capacity required by a development can be delivered through a rezoning exercise, then a contribution will be sought towards the cost of the rezoning consultation however this is a separate statutory process, and the issuing of planning consent would require to be delayed until such time as the relevant rezoning was approved. If a rezoning is not approved, then alternative mitigation would need to be explored.

*How is the contribution calculated?*

- Calculations for each development are based upon the content of the Housing Land Audit (HLA) and published School Roll Forecasts (SRF) for Aberdeenshire using the following formula:

**Average Number of Pupils Over Capacity period x Rate of Mitigation =  
Contribution**

- The average number of pupils over capacity shall be expressed as a percentage of the number of houses proposed by a development against the total number of houses built during the 5-year period.
- Contributions are calculated on the basis of the average number of pupils over capacity over the 5-year period following the submission of a planning application.
- Contributions relating to applications for Full Planning Permission and Matters Specified in Conditions shall be calculated using Standard House Unit Equivalents. This shall ensure that contributions are proportionate and related in scale and kind to the development proposed.
- Where the phasing of development increases the build out period beyond 5 years, contributions for the extended period of development and remaining housing units shall be calculated using the following formula:

**Number of Houses Remaining x Relevant Pupil Product Ratio x Rate of  
Mitigation**

## **Rates**

The rates per pupil as set out below reflect the costs incurred by the Council for delivering education infrastructure and are in line with the Scottish Futures Trust space standards and rates per sqm, index linked.

<b>Primary Education TYPE OF MITIGATION*</b>	<b>RATE PER PUPIL</b>
• New Build (232-462 capacity)	£21,375.00
• New Build (463+ capacity)	£18,525.00
• Permanent Extension	£18,525.00
• Reconfiguration	£7,833.00
• Rezoning	£3,820.00
<b>Secondary Education TYPE OF MITIGATION</b>	<b>RATE PER PUPIL</b>
• New Build (801-1200)	£26,147.00
• New Build (1200+)	£23,770.00
• Permanent Extension	£23,770.00
• Reconfiguration	£10,444.00
• Rezoning	£3,820.00

\* Please note these rates are currently being reviewed and will be updated in the final note

## **Land Requirements**

On larger developments, where the development as a whole or as part of a masterplan, generates the need for a new school, the developer will be required to reserve and provide an appropriate sized area of fully developable and serviced land for a school based on the following:

### **Primary School:**

- 5.5 acres (2.2 hectares) (based on a 232-460 place community school)
- 7 acres (2.8 hectares) (based on a 460+ place community school)

## **Secondary School:**

- 26 acres (10.5 hectares) (based on a 1200 place community school).

Consultation should be undertaken with the Council in respect of the location of any school sites as part of a development and serviced land provided to be reasonably level topography and at nil value or to proportion of value generated by the development and a proportionate financial contribution towards the buildings. The market value of the remainder of the land shall be based upon its use as a site for an education facility only.

### **15.3 HEALTHCARE FACILITIES**

Healthcare facilities can include General Medical Services (GMS), Dental Services and Community Pharmacies or such other infrastructure systems relating to those which will offset the impact of development e.g., remote consulting, reconfiguration etc.

*When and where does it apply?*

It applies to all residential developments where the capacity of existing facilities will be exceeded as a result of the development. Site specific requirements are initially identified in the Settlement Statements.

The baseline is identified as the recommended number of patients of 1500 per General Practitioner (GP). Contributions may be sought for a new build facility, permanent extension or internal reconfiguration works to provide additional capacity, or such other infrastructure relating to those which will offset the impact of development e.g., remote consulting, reconfiguration etc.

Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities, however has not been updated to reflect either the impact of Health and Social Care, or new technologies and further evidence will be provided on the mitigation and costs of these when contributions are sought towards those instead of physical buildings.

*How is the contribution calculated?*

**No of SHUE x Relevant Rate = Contribution**

The Scottish Health Planning Notes identify a floorspace requirement per GP of 271m<sup>2</sup>, with each GP capable of accommodating a maximum of 1500 patients, however that is based upon new build so mitigation works to existing buildings will need to have regard to their existing individual layouts and practical functionality. The delivery of primary healthcare provision now also includes a number of Health and Social Care Partnership and linked worker services located within the same facility and so additional floor space for these will need to be accounted for.

The total project cost is based on information provided within the Quality & Efficiency document produced by Scottish Futures Trust, updated to Q1 2016. The Build Cost per square metre is then multiplied by floor area, patients per GP, and the average household size which results in the relevant contribution.

<b>REQUIRED MITIGATION</b>	<b>CONTRIBUTION PER SHUE</b>
Permanent Accommodation	£1,340.00
Internal Reconfiguration	£788.00

For development sites where a new build facility is proposed then a proportionate land contribution may also be required. This may be in the form of fully developable serviced land at nil value and a financial contribution toward the building. The market value of the land shall be based upon its use as a site for a healthcare facility only. For digital infrastructure, the costs would be identified and informed at the time of the assessment.

#### **15.4 WASTE AND RECYCLING FACILITIES**

Development may generate a need for new or additional waste and recycling facilities to service the growing population. The Settlement Statements identify where there is a requirement for new or replacement facilities to serve communities in line with the Updated Integrated Sustainable Waste Management Strategy for Aberdeenshire 2001-2020.

Contributions are calculated at a cost per standard house unit equivalent and will be spent on facilities that serve the local population. Costs per household for each type of facility are set out below.

<b>TYPE OF FACILITY</b>	<b>CONTRIBUTION PER SHUE</b>
Household Waste & Recycling Centres	£109.00
Waste Transfer Stations/Bulking Points	£188.00

## **15.5 COMMUNITY HALLS & FACILITIES including SPORTS & RECREATION FACILITIES**

Community facilities include provision such as town, community and village halls, and other open space community facilities such as allotments (where not provided as part of the open space strategy), children’s play areas and path improvements. Sports & Recreation Facilities Contributions will be invested within the relevant secondary school catchment area or nearest service centre which provides the mitigation. Contributions will usually be tied to the delivery of a given project but given the time it can take to accrue contributions, and in order to respond to emerging alternative community facility and sports projects, they may be reallocated. In allocating contributions, the Council will give due regard to where these contributions have come from to ensure that the investment mitigates the impact of development.

*When and where do they apply?*

### **Contributions for community halls**

Contributions may be required where the capacity of existing facilities shall be impacted by new development, subsequently detracting from the amenity of existing residents unless mitigation is implemented. For community halls ,financial contributions may be secured towards internal reconfiguration or other works to

enhance the capacity of the building, additional works in the form of an extension, or a new build facility or to costs of other community facilities. During the assessment process, detailed consultation is undertaken with relevant services and Area Management Teams. Where a contribution is required, the Council shall evidence that the proposed development shall impact on existing provision.

The required additional capacity will be provided by the most appropriate method, by either re-configuration of existing community halls where possible, or through the erection of an extension or a new community hall, or expanding or creating new community hall facilities and which may collocate within new education facilities. As these separate methods have different associated costs, separate rates will be applied.

***How is the contribution calculated?***

The level of contribution for community halls is calculated on the requirement of 0.75sqm of community hall or space per dwelling house for developments of all sizes in line with recommended standards.

$$\text{Calculation} = \text{No of SHUE} \times \text{Relevant Rate} = \text{Contribution}$$

REQUIRED MITIGATION	CONTRIBUTION PER SHUE
Permanent Accommodation	£1,849.00
Internal Reconfiguration	£740.00

Contribution other community facilities

Proportionate contributions and for Costs for other community facilities e.g play areas , paths, allotments will be evidenced and provided as and when pre application and application assessment iare undertaken.

**15.6 SPORTS & RECREATION FACILTIES**

Sports & recreation facilities include both indoor and outdoor facilities or any facility or playing surface used for sports including but not limited to include pitches for football; cricket pitches; rugby pitches; hockey pitches; bowling greens, tennis courts; multi-sports courts; skate parks; cycle/athletics tracks; and associated land acquisition,

ground enabling works, changing facilities, lighting, fencing, spectator areas and parking.

***How is the contribution calculated?***

A baseline is used to calculate the requirement for Sports & Recreation space for different elements based on population numbers, current provision, and the impact of the proposed development. As Sports & Recreation facilities usage serves the wider community, assessment is undertaken on the basis of academy catchment, which relates directly to the proposed development. Any contributions secured will be expended within the relevant academy catchment.

Where development is likely to have an impact on indoor and/or outdoor sports facilities resulting in a requirement of mitigation, it will usually be identified in the Settlement Statements, council sports strategies and relevant Community Action Plan. Further consultation may also be required with internal services and the community to establish how each facility is impacted by the proposed development to further evidence any required contributions.

The required mitigation will be provided by the most appropriate method, by either re-configuration where possible to maximise use, extension to existing provision, or through the erection of new Sports & Recreation facilities which may be included within new education facilities. Furthermore, indoor and outdoor rates will differ and as these separate methods have different associated costs, separate rates will be applied. These rates are identified below:

<b>TYPE OF FACILITY</b>	<b>CONTRIBUTION PER SHUE</b>
Outdoor Sports Facilities (New Build/Extension)	£149.00
Outdoor Sports Facilities (Reconfiguration)	£97.00
Outdoor Sports Pavilion	£204.00
Outdoor Sports Pavilion (Reconfiguration)	£122.00
	£375.00

Indoor Sports Facilities & Community Learning Hubs  
(New Build/Extension)

£263.00

Indoor Sports Facilities & Community Learning Hubs  
(Reconfiguration)

## **Part 2 - Affordable Housing**

### **1. Policy Basis**

The Aberdeen City and Shire Strategic Development Plan (SDP) 2020 recognises the need for affordable housing and states that “providing affordable housing is critical to delivering sustainable mixed communities.” In order to assist in meeting the need for affordable housing in Aberdeenshire the SDP includes a target “for new housing to meet the needs of the whole community by providing appropriate levels of affordable housing (generally no more than 25%) and an appropriate mix of types and sizes of homes.”

Policy H2 Affordable Housing of the Local Development Plan stipulates “all new housing developments of four or more homes must include 25% of the serviced plots for affordable housing according to the definitions in the current Housing Need and Demand Assessment” at a cost lower than full market value.

This policy does not preclude the developer offering a greater level of affordable housing, but proposals will have to conform with the principle of sustainable mixed communities and meet an established local need. Such proposals shall also require to demonstrate that a greater level of affordable housing can be delivered with little or no public subsidy.

Planning Advice Note (PAN) 2/2010 and the More Homes Division Guidance Notes 2020/02 – Affordable Housing Supply Programme: Processes and Procedures<sup>1</sup> offer the most recent guidance on the role of planning authorities in the provision of affordable housing and this Planning Advice reflects the terms of those planning policy documents but this will be reviewed prior to adoption of this Planning Advice to take in account expected NPF4 and further updates to guidance.

### **Priority and Need for Affordable Housing**

Affordable housing is a key priority for Aberdeenshire Council and cuts across the three pillars of Aberdeenshire Council’s Strategic Priorities:

**Our People**

**Our Environment**

**Our Economy**

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<sup>1</sup> View the latest guidance note at: <https://www.gov.scot/publications/affordable-housing-supply-guidance-notes/>

Education

Infrastructure

Economy & Enterprise

Health & Wellbeing

Resilient Communities

Estate Modernisation

The need and priority are reflected in the Local Housing Strategy (LHS). The LHS 2018-23 sets out the need for affordable housing and uses the LDP's Housing Needs and Demand Assessment (HNDA) 2017 as its key evidence base. The Strategic Housing Investment Plan (SHIP) identifies details of the proposed delivery of affordable housing and is produced annually by the Council. Please see [Aberdeenshire Council Housing Policies and Strategies](#).

There is no overall national definition of affordable housing, but it is referred to in the SDP and LDP as "*housing made available at a cost below full market value, to meet an identified need.*" It includes social rented housing, subsidised low-cost housing for sale (discounted, shared ownership or shared equity) and low-cost housing without subsidy (entry level housing for sale). Build to Rent and other private rented accommodation available at lower cost than market rents will also be considered within the affordable housing category provided it can be secured as affordable housing in perpetuity in so far as practicable.

This affordable housing Planning Advice focuses on the requirement of the development industry to assist in subsidising housing for those who are unable to access housing without some form of assistance. The HNDA, SHIP and the evidence base of the Council's Housing Service, show that there is a significant need for Affordable housing options across Aberdeenshire.

## **2. Affordable Housing Requirements**

### **2.1 Engagement**

The aim of this Planning Advice is to ensure that development assists in the provision of affordable housing in perpetuity and this approach is fair to all. The type of affordable housing and the form of the contribution will vary between locations as housing need changes overtime. An assessment as part of pre-application discussions will determine the actual requirement and the form of provision specific to the particular development. Masterplans will be expected to identify the scale and location of affordable housing proposed and adherence to all relevant policies within

the LDP will also help ensure that development in Aberdeenshire meets the housing needs of the entire community.

Developers and Landowners are encouraged to engage with the Affordable housing team as early as possible to ascertain the affordable housing contribution required and an assessment can be provided at any time. The Council encourages early engagement by all developers and landowners and offers a free pre-application advice service which also includes a response from both Affordable Housing and Developer Obligations Teams. These assessments will consider the available information on the supply and demand for affordable housing within the settlement and housing market area which the application relates to. Once progressed to an application, a further assessment will also be carried out for each qualifying planning application through consultation from the Development Management Case Officer.

## **2.2 Types and Tenure**

The requirement for a contribution towards meeting affordable housing needs can be addressed by a variety of methods and the Council's forms of provision and the conditions under which they may be sought are detailed below. There are different costs incurred by different forms of provision and the percentage of affordable housing delivered may differ depending on form, but in each case the developer will be expected to make the same effective level of contribution.

Any affordable housing provision requires to be agreed with Aberdeenshire Council as the strategic housing authority, ensuring that any such provision covers a wide range of housing need from one-bedroom properties through to four-bedroom properties including the provision of fully wheelchair accessible properties for those households with particular needs.

## **2.3 Priority and Provision of Affordable Housing**

Delivery of affordable housing is the prime objective of the LDP policy and requires close liaison between the private sector and the Council's own Housing Service to ensure that land or units secured for affordable housing development is implemented timeously. Developers should note that public subsidy for the provision of affordable housing is not guaranteed. The policy requirement to deliver the full affordable housing contribution will remain in cases where subsidy is not available. In such cases, alternative means of providing the full affordable housing contribution, such

as low-cost entry-level housing, should be discussed with the Council at the earliest opportunity.

Affordable housing contributions may consist of serviced land, units on site and/or financial contribution towards the provision of on-site forms of affordable housing. On-site provision is prioritised by the Council in the first instance as opposed to off-site forms or commuted sums. The forms of, and priority of affordable housing contribution that will be sought will be determined on a site-by-site basis but generally are:

### **Priority**

- **First -Serviced land** - A fully serviced site of a size capable of providing an area with services for 25% of the proposed residential units and based upon an indicative number, size, type and tenure of units provided by Housing Service. Land should be serviced, deliverable, accessible and ready to develop on site for the appropriate 25% and will be required to be transferred to Aberdeenshire Council or a Registered Social Landlord (RSL) at a nil land value to reflect policy obligations. The land must be in a state to allow immediate construction i.e. levelled and with all spoil etc. removed and as part of the evidence of this further diligence will be undertaken by the Council to ensure that the land can be developed. This will require provision of (1) Title information restrictions; (2) Plans if available; (3) access restrictions; (4) Planning restrictions including Local Plan designation; (5) Proximity & Location of existing Site Services; (6) any capacity restrictions, Ground Conditions / Site Investigations if available; and (7) Site topographical survey if available.
- **Second -Social rented accommodation** - Housing provided at an affordable rent which is owned, managed, or leased by the Council or an RSL. Agreement will be required on the number, type and mix of affordable housing units on site, including meeting any standards that are required such as Housing for Varying Needs standards, fire suppression systems and energy efficiency for social housing in Scotland;
- **Third -Mid-market rented accommodation** - (MMR) is Housing provided with Scottish Government subsidy through an RSL, the Council or council

intermediary at rental levels below the Local Housing Allowance rate (LHA). It can also be provided without subsidy by the developer provided it meets the Council's criteria for MMR requirements in the relevant Housing area with rentals below the prevalent LHA. Any MMR provision, including corresponding management policies and nomination rights requires to be agreed with the Council.

- **Fourth -Shared equity and discounted low-cost housing for sale, including discounted serviced plots for self-build** - This is where housing/plots are sold at a percentage discount of its open market value. The council has its own successful, Low-cost shared equity scheme. The appropriate sale prices are discussed below.;
- **Fifth- Housing without subsidy** -The sale price should be informed by the HNDA and terms and agreed by the Council to ensure that the dwelling remains subsidised at an affordable level in perpetuity.
- **Six- Commuted Sums as last resort** - these are discussed below.

## **2.4 Timing of Delivery**

A flexible and innovative approach is required to secure access to unconstrained development sites and so the priority is set out above but may be departed upon provided the timing of affordable housing delivery has been taken into account of and agreed in any pre-application assessment undertaken by developers' obligation team and discussions with the Council.

There will be an agreed time limit for the Council and or RSL to agree or approve the delivery of the on-site affordable housing, but if within this timescale the Council cannot arrange or approve delivery for on-site or for an alternative flexible affordable housing solution to be agreed with the developer, the last option will be a Commuted Sum.

## **2.5 Triggers**

Agreed triggers for the delivery of the affordable housing relative to the timescale of delivery of the open Market units will be required in all S75 agreements to ensure delivery of the affordable housing but having regard to the financing and cashflow for the development.

## **2.6 Site Viability**

The Council recognises that a requirement to contribute to affordable housing needs will result in a cost to the developer and landowner however this is required to be accounted for in any development appraisal and agreed and reflected in land value agreed with site owners. This result follows inevitably from government policy, which identifies a 25% affordable housing target. There is consequently an expectation that little, or no profit will be generated from this 25% of development sites. Similarly, in order to offset the costs of any infrastructure or community facilities that are caused by the development as a whole, developers will be expected to take these into account in their development appraisal and when negotiating a land value with site owners. The Council's policy on developer obligations applies to all developments irrespective of the provision of affordable housing, and vice versa.

The Council is also aware of the need to achieve a successful Development and in respect of any unforeseen viability issues, the procedure set out in Schedule 1 should be adhered to.

## **2.7 Aggregation**

The sub-division of larger sites into multiple developments of less than 4 houses in order to avoid contributing towards affordable housing will not be supported. In cases where multiple related applications may be received, over a period of time consideration will be given to the cumulative impact of the development and affordable housing contributions will be sought on the basis of the overall site capacity. Developers wishing to develop in small phases are encouraged to discuss this with the Council at the outset in order to ensure that the affordable housing contribution can be properly planned.

## **2.8 Affordable House Prices**

The prices have been determined using "A Practitioners Guide – Housing Need and Demands Assessment October 2020"<sup>2</sup> which sets out that a house is affordable to purchase if its price does not exceed 3.9 times a household's average income. The maximum prices applicable to the low-cost housing for sale, Social rent and Shared Equity options will be updated and published on the Council website.

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<sup>2</sup> Available at <https://www.gov.scot/publications/hnda-practitioners-guide-2020/>

## **2.9 Design**

In design terms the agreed affordable housing element must be considered as an integral part of the development and have good linkages to surrounding services including public transport. The affordable housing should be, as far as possible, visually in character with the open market housing and be physically integrated.

Discrimination against low-income households should not be evident by asking them to accept housing sites that would not be acceptable to private house buyers. In practice this will mean that such housing is not exclusively in the least desirable part of a site and full consideration of features such as, for example: SUDs basins, pylons and substations should be made. All of these issues should be considered in adherence to the LDP's design policies and be addressed at the time of any pre-application consultation.

## **2.10 Off-site Provision**

On-site provision of affordable housing encourages mixed communities and helps to promote social inclusion. However, it is accepted that this may not always be possible. In exceptional circumstances, the developer may, with the agreement of Aberdeenshire Council, make allocated development land or suitable brownfield sites available for the development of affordable housing off-site, or as a last resort contribute a commuted sum towards affordable housing provision elsewhere in the local community, such as the catchment of the local academy.

Exceptional circumstances which may make a site unsuitable for on-site affordable housing provision could include, for example, the conversion of buildings where relevant affordable housing standards cannot be met or where off-site provision would create a more appropriate local tenure mix. Including both private and affordable housing within one application but on separate sites will still be considered as off-site provision. In the event that off-site provision is agreed, there are likely to be two delivery options:

- Where the developer is not constructing the affordable housing, the affordable housing site must be transferred to the Council or a Registered Social Landlord prior to the delivery of any houses on the primary site.
- Where the developer is actually delivering the affordable housing on the secondary site, it is likely that the corresponding number of plots on the main

development site will need to be reserved and not released for private market housing development until the off-site affordable houses have been delivered.

The precise details will be agreed at the time of the application or pre-application enquiry.

### **2.11 Commuted Sums**

Councils and RSLs are not able to compete with private developers to acquire land and hence the need to comply with the Affordable housing policies. Commuted Sums will only be accepted in lieu of on-site provision, in the rare and exceptional cases e.g., no suitable sites brought forward following the priorities as set out above or where there is no public subsidy or if unforeseen costs and viability issues have arisen and been accepted.

The amount payable will be a value equivalent to the cost of providing the percentage of serviced land required by the policy. The amount will be based on an exercise undertaken by the District Valuer using a benchmark approach. The benchmark approach is based on plot values for a notional 3 bedroomed semi-detached property for unrestricted market sale and for the value of an identical plot restricted in perpetuity to the provision of affordable housing. The difference between the affordable housing plot value and the market plot value represents the commuted sum payable (for a single plot). This benchmark analysis is undertaken for areas within Aberdeenshire with comparable market characteristics (based on Academy catchments) to produce a range of commuted sum requirements that reflect local market conditions. The total commuted sum requirement for any development site will be calculated by multiplying the relevant individual plot value by the total number of affordable housing units required by the policy. The assessment is currently being updated and will be reviewed every two years, and the commuted sum will be published on the Council's Housing website.

The Commuted sum must be spent within the local housing market area.

## **Schedule 1 – Viability**

### **Viability**

Financial viability can have regard to not just a single policy's impacts but the cumulative impact of policy requirements and developer contributions. In terms of viability however all of these policy documents only recognise a departure from the policy requirements for provision of developer obligations and affordable housing to address viability and no other policy requirement.

### **Land Value**

The price paid for land is not a justification for failing to accord with development plan policies.

The Royal Institute of Chartered Surveyors (RICS) guidance on Financial Viability in Planning, Guidance Note (1st Edition- GN94/2012 - abbreviated to RICS FVIP) and now updated, at [para 1.2.4] of Assessing Viability confirms this, and the District Valuer (DV) when instructed by the Council has adopted and used the RICS's guidance as the most appropriate. The use of the DV in this way is supported by paragraph 22 of PAN 2/2010 setting out this as recommended good practice.

### **Unexpected Costs**

The same case law and RICS guidance on Financial Viability in Planning advise it is only unanticipated costs which can be considered in viability assessments.

### **Viability Requirements**

The minimum requirements for assessing viability. For unforeseen costs to be considered an applicant is required to prepare and submit the following:

- An independent and verified Development Viability Statement. This allows a comparison of costs to be evaluated against projected value and should also set out in detail as to why increased costs could not have been anticipated by any reasonable, experienced developer. This should include an explanation of financial assumptions and an explanatory note on all appraisal assumptions. The report should detail the financial implications of the additional costs and their implications for the viability of the development.

- A certified dated copy of the original viability appraisal setting out the allowances made for developer obligations and affordable housing policy and compatibility with prevailing policy requirements.
- From a RICS accredited firm a Quantity Surveyor's (QS) detailed cost budget on development costs e.g., externals, infrastructure, and abnormal costs which include a detailed breakdown, produced in accordance with RICS published costing data and with regard to the recommended practice set out in the RICS Practice Statement Financial Viability in Planning: Conduct and Reporting (2021) (RICS FVIP).
- Verified site valuation at the time of the application submission.
- Projected market valuations for each property within the development (with supporting evidence).
- An indication of the timescales within which each property would be marketed and sold and, where appropriate, development phasing information.
- Design and Access statement (if applicable and available);
- Detailed appraisal (current costs/values) and cash flow;
- Build specification;
- Rents and yield assumptions for all commercial elements (with supporting evidence);
- Assumptions on all grant funding and (where appropriate) evidence of transactions/negotiations with RSL's;

The confidential and sensitive nature of some financial information is acknowledged, and the content of the Assessment will remain confidential between the applicant and named officials within the Council, District Valuer and the relevant decision makers and committees.

However, the terms of the Freedom of Information (Scotland) Act 2002 are the ultimate determining factor as to what requires to be published albeit the Council will strive to keep such financial information confidential.

### **Outcomes of the Viability Exercise**

Once a Development Viability Statement and supporting information is received by the Council it will be independently reviewed by the District Valuer Service (DVS). This will be carried out at the developers' expense with costs determined on an

individual basis. The requirement for independent verification of Viability Assessments will only be removed where the time and cost associated with this process is disproportionate to the amount of developer contributions or affordable housing required. Each case will be determined by the Council on its own merits.

The outcome of the Viability Assessment review will not be binding on the Council but may inform any recommendation to the appropriate planning decision maker. If the exercise establishes there are viability issues with the development, the council will then have to determine if the shortfall in the infrastructure and affordable housing requirements can be borne by the Council and/or its partners as ultimately the impact of the development will need to be mitigated and paid for. In event that the Council can support the viability, it will proceed with such a recommendation but ultimately if the infrastructure cannot be funded to offset the impact of development, then the site will be required to be deferred until such time as the site can become viable on its own merits.