

Planning to meet the need:

Delivering affordable housing through the planning system in Scotland

Liz Shiel and James Battye

From the Shelter Scotland policy library | April 2014

www.shelterscotland.org

© 2014 Shelter Scotland. All rights reserved. This document is only for your personal, non-commercial use. You may not copy, reproduce, republish, post, distribute, transmit or modify it in any way. This document contains information and policies that were correct at the time of publication.

Shelter
Scotland

Contents

3	Summary
4	Recommendations
7	Introduction
7	Current Scottish planning policy
8	Units delivered through affordable housing policies in Scotland
10	How are affordable housing policies used in Scotland?
12	Scottish planning policy: future developments
15	Planning policy at a local authority level
25	Conclusions and recommendations
30	Appendix 1: The development of affordable housing policies in England and Scotland
42	Appendix 2: Local authorities' experiences of delivering affordable housing through the planning system

Summary

- The planning system plays an important role in the delivery of affordable housing in Scotland – perhaps more important than previously realised. Around a third of all affordable units granted consent between 2007/08 and 2011/12 involved a contribution from the planning system, and the overall trend during this period was upward.¹ This suggests that where affordable housing policies are in place, they are making a substantial contribution. Unfortunately the statistical bulletin which tracked this information has recently been discontinued; given the value of this information we would like to see a new information series on this issue.
- Very few local authorities require more than the 25% ‘benchmark’ affordable housing contribution stated in current Scottish Government planning policy, and generally only in parts of their area where the need for affordable housing is particularly high. Where they do require more than 25%, some authorities have encountered difficulties securing a higher contribution on some sites because of viability issues.
- The recent draft Scottish Planning Policy (SPP) has important implications for the delivery of affordable housing through the planning system, and could reduce delivery. The draft suggests that the affordable housing contribution should generally be ‘no more than 25%’. Shelter Scotland is concerned that while it may be helpful to developers to have a ceiling, this ceiling may lead to pressure to reduce percentages to lower levels, even in areas where 25% has been demonstrated to be deliverable. The guidance should make it clear that in many areas 25% will be achievable and may be regarded as the norm. The draft SPP also suggests that specialist housing – including open market housing for older people – should be exempt from affordable housing contributions. Our view is that this should be a matter for local policy makers and not prescribed by national policy.
- The option of intermediate tenure – i.e. mid-market rent and low cost home ownership – has also become increasingly important. Understanding the market for different tenure types is key to the success of this, as is good information on the tenures accepted by local authorities. Local authorities highlighted ‘golden share’ developments – a form of unsubsidised low cost home ownership which is affordable in perpetuity – as being particularly popular. However, with only one mortgage lender

¹ Statistical Bulletin, Planning Series, Affordable Housing Securing Planning Consent 2011/12, <http://www.scotland.gov.uk/Resource/0040/00402932.pdf>

offering an appropriate mortgage product for this tenure, work needs to be done to promote this.

- We heard some anecdotal evidence that the higher grant levels introduced recently² may be feeding back into higher land values than was the case with the previous grant regime. Shelter Scotland would like to see guidance suggest that increased grant should be used to facilitate higher proportions of social rented housing. This type of housing has the greatest requirement for grant, and is most in need. Some registered social landlords (RSLs) and local authorities have done this – ensuring that the increased level of grant provides more social rented housing and less intermediate housing, so the overall receipt to the developer will not increase.
- A case could be made for lower grant rates on affordable housing which is delivered through section 75 obligations.³ The argument for this is that because the land is transferred at a value for affordable housing, it should therefore result in lower costs to RSLs. The lower the value at which land for affordable housing is transferred, the less the requirement for grant, and so more units can be provided for the same amount of public money. For some authorities, the transfer of land for affordable housing at zero value is an option they may wish to consider. This has been the policy in Edinburgh.⁴

Recommendations

- **There is a need for a new information source on affordable housing securing planning consent:** this would be a replacement for the statistical bulletin on the Affordable Housing Securing Planning Consent Survey, which was recently discontinued. Information about the contribution of the planning system to affordable housing is important and Shelter Scotland would like to see a ‘refreshed’ statistical bulletin. This should provide clear information about the proportion of affordable housing for which the planning system has played some part in delivery, and on the tenure of housing provided, which is important given the increasing role of intermediate tenure in the delivery of section 75 sites.

² From the recommendations of the short life Financial Capacity, Affordability and Development Subsidy Working Group convened by the Scottish Government, July 2013

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/ahsp/WkgGroupSpring13FinCap>

³ Obligations associated with the grant of planning permission.

⁴ Edinburgh City Council, Affordable Housing Practice Note, 2011

http://www.edinburgh.gov.uk/downloads/file/5067/ahp_practice_note_2011_annual_update

- **25% affordable housing may be considered a maximum but it will often also be the norm:** Shelter Scotland is concerned that the phrasing in the draft SPP may suggest to developers that 25% can be regarded as an absolute upper limit, and that they will press for lower figures when supplementary guidance on affordable housing is revised. In fact, there are many areas of Scotland where 25% is generally achievable and should be regarded as a norm. We believe that the policy wording needs to make that clear.
- **Open market housing for older people should not be exempt from affordable housing policies:** Shelter Scotland is strongly opposed to the suggestion that national planning policy should exempt all specialist housing, including open market housing for older people, from the requirement to provide affordable housing. We believe that this should be a matter for each local authority to decide, reflecting the particular circumstances of their area. Some authorities may wish to encourage the provision of more housing of this type whereas for others, affordable housing delivery will be the priority.
- **The role of intermediate tenure should be explored further:** local authorities looking to make best use of intermediate tenure options in their area should gather in-depth local market information on prices, rents and incomes to supplement the broader information on this in the Housing Needs and Demand Study. They should also collect information on the potential level of demand for these options – perhaps through the housing options approach or by developing a waiting list for intermediate tenure. This ensures that intermediate tenure affordable housing meets an unmet need, and that all of the units are bought or rented out. It also allows local authorities to monitor whether the affordable housing policy is achieving its aims. Awareness should also be raised – amongst local authorities and mortgage lenders – of particular tenure types which meet an identified need, such as ‘golden share’ developments. More generally, councils should do more to raise the profile and understanding of intermediate tenure housing options to local residents.
- **Commuted sums should be set at a level high enough to pay for land for affordable housing in the relevant market area:** there have been problems with reaching agreements about what the level of commuted sums should be. Commuted sums are capital payments made to local authorities as an alternative to the provision of land for affordable housing. Developers like clear policies in relation to these sums, but this is difficult where there are different housing market areas within the local authority area. It is important that where standardised tariffs are set for commuted payments, these are not set so low that they will not in reality pay for land for

affordable housing in the relevant market area. Some local authorities have combined commuted sums with the fund from council tax on second homes. This has allowed affordable housing to be delivered off site, or funded a higher proportion of social rented housing, which needs more grant.

- **Infrastructure requirements should be considered when affordable housing policies are being drawn up:** substantial infrastructure developer contributions can make it impossible to deliver affordable housing policies. Both draw on the same source – the value created by development. Wherever possible, housing sites should be selected in the development plan process which have manageable infrastructure costs, and infrastructure requirements should be made transparent, so that the viability of affordable housing policies can be assessed.
- **There is a need for more guidance on how rural exceptions policies should operate:** rural exceptions policies are mentioned for the first time in the draft SPP. This area of affordable housing policy would benefit from additional guidance, with an emphasis on housing being provided in perpetuity for people with a local connection.
- **There is a case for a new model of best practice dissemination:** skills development and knowledge sharing are key in this specialised area of policy. There is a case for a new model of best practice dissemination, which allows practitioners to learn from others. One option might be to replicate the model funded by the Scottish Government and hosted by Shelter Scotland for the Empty Homes Partnership, for the delivery of affordable housing. This would provide the opportunity for shared service projects, officer networks and one-to-one support for councils, with appropriate guidance, digital support and seminars and events.

Introduction

This report is based on research Shelter Scotland carried out into the delivery of affordable housing through the planning system in Scotland. Our aim is to increase understanding of the role the planning system plays in the provision of affordable housing, to highlight current issues and obstacles to delivery, and to highlight good practice. The research was carried out in late 2013 and early 2014 and included 4 local authority case studies along with a series of interviews with stakeholders. We would like to thank all who contributed to this report, by giving their time to speak to us as case study authorities or as stakeholders, and sharing their insights and experience. We hope that this research will be of value to local authorities, developers and the Scottish Government.

Our research is based on:

- Desk research, including a review of the evolution of policy in Scotland, set in a UK context (Appendix 1).
- A review of policy issues, including the changes proposed in Scottish Planning Policy, changing grant levels, and the discontinuance of the statistical bulletin on affordable housing securing planning consent.
- Detailed case studies with Aberdeenshire, Edinburgh, East Renfrewshire, and Perth and Kinross Councils (Appendix 2).
- Discussions with stakeholders, including the Scottish Government's housing and planning divisions, Homes for Scotland, the Valuation Office Agency and the Scottish Federation of Housing Associations.

Current Scottish planning policy

For many years Scottish planning policy has, through its policies and advice notes,⁵ drawn attention to the potential for the planning system to support affordable housing delivery. Broadly speaking, it can do this in two ways:

- Securing land and sites which at most phases of the property cycle have been hard to acquire for affordable housing because affordable housing providers are outbid by others in the market.

⁵ See Scottish Government, Planning Advice Note: 2/2010 Affordable Housing and Housing Land Audits, 2010 <http://www.scotland.gov.uk/Publications/2010/08/31111624/0> and its predecessor policies

- Securing cross subsidy from the proceeds of the development process – making affordable housing less expensive to provide – usually by reducing land cost.

Current Scottish Planning Policy⁶ (SPP) states that each local authority has the discretion to decide on how affordable housing should be provided in its area. This discretion should reflect local circumstances, whether and how the planning system should be involved, and what is expected from developers. SPP stresses that policies on affordable housing provision should be realistic, and take into account considerations such as development viability and the availability of funding.

Where it is justified by the housing needs and demands assessment, and contained in the local housing strategy and development plan, local authorities “may seek a percentage affordable housing contribution from developers of new housing developments”. Planning policy also states a ‘benchmark’ percentage for each site’s contribution of “25% of the total number of housing units as affordable housing”. The benchmark does not apply where “a different percentage is required locally, justified by the housing need and demand assessment and identified in the local housing strategy and development plan”.

The policy also points to the Planning Advice Note (PAN) on affordable housing and landlord audits, for advice on the range of possible options for the provision of affordable housing. The note states that: “the contribution from the developer of a market housing site will normally be the provision of serviced land, e.g. a proportion of the site which can be developed by or for a RSL or the local authority. Such land can be transferred either at a value relating to its end use for affordable housing or by agreement between the developer and the RSL or local authority, at a lower value.”⁷

This then is the current policy⁸. However, little is known about the overall success of the current policy in terms of numbers of units delivered.

Units delivered through affordable housing policies in Scotland

Until recently, the Scottish Government published a statistical bulletin⁹ based on data

⁶ Scottish Government, Scottish Planning Policy, 2010, <http://www.scotland.gov.uk/Publications/2010/02/03132605/0>

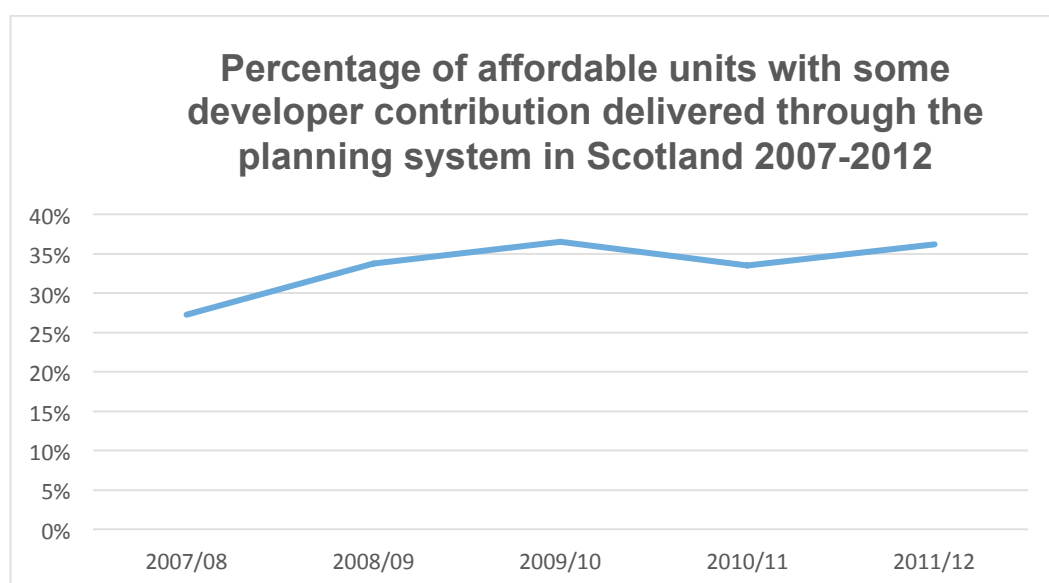
⁷ Scottish Government, Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits, <http://www.scotland.gov.uk/Publications/2010/08/31111624/0>

⁸ A revised policy has been the subject of a consultation, the new SPP will be published by the Scottish Government in June 2014.

collected by local authorities on affordable housing securing planning consent. This has recently been discontinued, and as a consequence, in future there will be no clear way of assessing how successful affordable housing policies are across the whole of Scotland.

Affordable housing by type of funding, Scotland, 2007-2012					
Year	All units	no. of entirely publicly funded units	% of all units	No. of units delivered where developer contributes land, units, or commuted payment or sells discounted units	% of all units
2007/08	5,861	4,264	73%	1,597	27%
2008/09	7,031	4,657	66%	2,374	34%
2009/10	6,543	4,152	63%	2,391	37%
2010/11	6,648	4,422	67%	2,226	33%
2011/12	4,767	3,043	64%	1,724	36%
Total	30,850	20,538	67%	10,312	33%

The trend in terms of the proportion of units consented which have been supported by the planning system has been upward. From 2007/8 to 2011/12, the proportion of affordable units which were entirely publicly funded, with no contribution of land or units from the planning system fell from 73% to 64%. And in the four most recent years around a third or more of affordable units have involved a contribution of one kind or other from the planning system.¹⁰



The type of provision has changed slightly over time, with the importance of housing units being provided (as opposed to land) increasing. The sale of houses to RSLs for affordable housing – generally through design and build contracts – has become the most common

⁹ Statistical Bulletin, Planning Series, Affordable Housing Securing Planning Consent 2011/12, <http://www.scotland.gov.uk/Resource/0040/00402932.pdf>

¹⁰ Source: Statistical Bulletin, Planning Series, Affordable Housing Securing Planning Consent 2011/12, <http://www.scotland.gov.uk/Resource/0040/00402932.pdf>

method of delivery, partly because of market circumstances after 2007 and perhaps also because the economies of scale offered mean that it may represent better value for money for RSLs.

Nature of affordable housing contribution, Scotland, 2007-2012									
Year	Developer contributes land	%	Developer contributes units	%	Developer sells discounted units privately	%	Other type of contribution including commuted payments	%	Total units with a developer contribution
2007/08	515	32%	876	55%	87	5%	119	7%	1,597
2008/09	792	33%	963	41%	167	7%	452	19%	2,374
2009/10	450	19%	1,122	47%	113	5%	706	30%	2,391
2010/11	382	17%	1,578	71%	73	3%	193	9%	2,226
2011/12	120	7%	1,375	80%	67	4%	162	9%	1,724
Total	2,259	22%	5,914	57%	507	5%	1,632	16%	10,312

Adverse market conditions and a different approach to grant support for affordable housing are amongst the factors which are believed to have impacted on the working of such policies in recent years. The lower figures in 2011/12¹¹ are attributed to the introduction of the Innovation and Investment Fund which resulted in no approvals for RSL and council new builds in Quarter 3 2011. Despite this the picture is, on the whole, positive – with affordable housing policies playing a role in a significant share of the affordable housing granted consent in Scotland.

How are affordable housing policies used in Scotland?

How prevalent are they?

The overwhelming majority of local authorities in Scotland have affordable housing policies – requiring a proportion of affordable housing in each new development – with 23 out of 32 local authorities delivering affordable housing through the planning system in 2011/12. Only a small number of authorities do not have an affordable housing policy in their local development plan. Many of the authorities who do not require a percentage contribution towards affordable housing on new developments are in west central Scotland. These are generally authorities with less pressurised housing markets and fewer problems of affordability. Glasgow City Council, for example, is one of the group of authorities who do not have an affordable housing policy. While the policy may not be required from the point of view of delivering affordable units for these local authorities, we would suggest that it could still play a role in building mixed communities. Island authorities are another group who generally do not require affordable housing contributions. They may find that an affordable housing policy will generate very few units

¹¹ *Ibid*

because the nature of housing development tends to be different there, with many more new houses built as single, individual houses.

The statistical bulletin on affordable housing securing planning consent for 2011/12 suggests that the authorities who had no provision of affordable housing to which developers contributed over the 2007- 2012 period include: Dundee City, East Ayrshire, Eilean Siar, Glasgow, Inverclyde, Orkney Islands, Renfrewshire, Shetland Islands, and South Lanarkshire.

The 25%: a benchmark – or a maximum?

When it was introduced as a 'benchmark' in SPP3 in 2003, there was some confusion about what a benchmark meant. Our impression is that it has become the most frequently used figure in local authority affordable housing policies, and thus a kind of norm. Some authorities do however use lower figures, and a few have higher requirements in particular areas. When the report 'All Pain, No Gain' was published by the Chartered Institute of Housing in January 2008¹² it reported that:

- Seven councils had no affordable housing policy.
- Four councils had a policy which allowed for a higher proportion than 25%, with 35% in Aberdeenshire, 20-40% in Angus, 20-40% in East Dunbartonshire and 10-30% in Fife, the last three depending on location.
- Five councils had a policy with a quota generally less than 25%, with 15% in Falkirk, 5-20% in Midlothian, 10-20% in Moray, 15-25% in the Scottish Borders, and 15% in West Lothian.

Our research shows that currently very few authorities have policies which require more than 25% affordable housing, although many recognise that the need for affordable housing evidenced in their housing needs and demand studies is much higher. And where they do, the higher figure often relates only to part of the authority's geographical area, generally the area under greatest housing pressure. So, for example:

- Fife Council requires 30% affordable housing in St Andrews, 25% in Dunfermline, and lower figures (5-15%) in other areas.

¹² Newhaven Research, 'All Pain, No Gain? Finding The Balance: Delivering affordable housing through the planning system in Scotland', Chartered Institute of Housing, 2008

- Perth and Kinross Council previously operated a higher percentage requirement in Perth city centre (50%) than its normal 25%, but found that that this ratio was unachievable due to viability issues.
- In Aberdeenshire, the percentages requested range from 10% in the least pressured areas to 40 and 50% in some of the most pressured settlements in the Aberdeen Housing Market Area. In Aberdeenshire, there was some anecdotal evidence that developers were not proceeding to develop sites with high quotas, possibly because of the consultation regarding the draft SPP, which suggests that the level of affordable housing required should generally be no more than 25%.

Scottish planning policy: future developments

This report has been written at the end of a long period of exceptional weakness in the market for new housing, with falling house prices and lower levels of completions. Policy responses from government in recent years have reflected that market environment, and rightly so. However, the market is changing fast and we are moving into a period of upturn in many areas. It would be unfortunate if the new policy framework for affordable housing¹³ were too heavily influenced by the concerns of the recent past, and the opportunity to provide an adequate level of affordable housing in new developments lost.

25% affordable housing: no longer a ‘benchmark’?

The recent draft SPP has proposed that the level of affordable housing required as part of a mainstream housing development should “generally be no more than 25%”.¹⁴ Shelter Scotland fears that this could result in 25% being seen as an upper limit, potentially reducing the percentage of affordable housing delivered through the planning system.

This view was shared by many local authorities in the consultation on the draft SPP,¹⁵ with 13 authorities disagreeing with the wording or had a mixed view and 5 querying it. Those authorities who supported the change in wording generally took a pragmatic view that, even though in some areas more than 25% was required to meet assessed needs, in present economic circumstances it was realistically the best that was achievable. This was usually subject to the availability of flexibility to adjust to different circumstances in different areas.

¹³ Due to be published in June 2014

¹⁴ Para. 97, Scottish Government, Scottish Planning Policy: draft for consultation, April 2013, <http://www.scotland.gov.uk/Publications/2013/04/1027>

¹⁵ Scottish Government, Draft Scottish Planning Policy: Analysis of Consultation Responses, November 2013, <http://www.scotland.gov.uk/Publications/2013/11/6251/7>

Local authorities who were opposed to the approach, or had serious reservations, tended to stress the need for greater flexibility to respond to local circumstances than the draft SPP policy seemed to allow.¹⁶ There were concerns that an 'arbitrary' ceiling and taking account of prevailing economic conditions would inevitably result in housing need – which was over 40% in a number of authorities – not being met. This appeared to some to be contrary to the advice in paragraph 95 of the draft SPP. There were several calls for the current 25% 'benchmark' approach to be retained as it was felt to have more flexibility and that in national parks 25% should be the minimum figure.

Housebuilders, who expressed unanimous support for the revision, stressed that this was the maximum level which would still support development viability and deliverability. Some pointed out that this was a ceiling and not a target, others wanted a lower figure and the 'generally' removed from paragraph 97.

Given that around a third of all affordable housing delivered in Scotland had some contribution from the planning system between 2007/07 and 2011/12, it would be a step back if the new SPP resulted in fewer affordable homes being built through affordable housing policies.

As is often the case in planning policy, much depends on the interpretation of the text, and in particular the word 'generally'. Shelter Scotland's concern is that the phrasing may tend to suggest to developers that 25% can be regarded as an absolute upper limit, and that a lower figure would frequently be appropriate. We would like to see a form of wording which recognises that there are many locations in pressured housing markets where experience has shown that 25% is generally viable, and can be regarded as the appropriate target. It would be unfortunate if this new wording were to result in pressure from developers, when consulted on new development plans, to reduce delivery of affordable housing. Particularly in areas where the housing market is generally capable of delivering 25% of units, or in other areas where market improvement in the next few years may make a 25% requirement viable. This is important when seen in the context of the current contribution the planning system makes to overall affordable housing supply in Scotland, during what has been a tough time in the housing market.

Should affordable housing requirements be applied to specialist housing?

Currently, local authorities may choose whether their affordable housing policy will apply to specialist housing – including open market housing for older people. Many authorities have chosen to apply affordable housing policies to housing for older people – all four of

¹⁶ For example, Edinburgh City Council in their consultation response.

our case study authorities did so. In some places difficulties have been reported with exempting open market housing aimed at this group. Generally speaking these are places which are attractive to older people, and have high levels of in-migration of older people. In St Andrews, for example, it was recently reported that this 'loophole' in the council's current policy of not requiring housing for older people to have an affordable housing requirement had meant that no affordable housing for general needs or families had been built since 2007.¹⁷

The Scottish Government has proposed a change in the wording of Scottish Planning Policy, that where permission is sought for specialist housing – including open market housing for older people – it is not necessary to make a contribution to affordable housing.¹⁸ Because this was not the subject of a specific question in the SPP consultation document, it seems likely that many respondents did not notice the change in wording, and neither was the issue analysed separately in the report of consultation responses. We are, however, aware that some local authorities disagree with this as a policy. For example Edinburgh City Council in their consultation response on the draft SPP and Highland Council in their current practice guidance on affordable housing, in which they state that, in their view, open market schemes for the elderly can be seen as addressing general housing needs and not affordable needs.¹⁹

Shelter Scotland believes that the key here is flexibility for local authorities: by setting a marker in Scottish Planning Policy that specialist developments should not be required to make a contribution for affordable housing, we run the risk of losing a potential source of affordable housing, often in areas where it is hard to secure.

25% of land or units?

A further small change introduced in the draft policy is that the 25% quota is to be applied to the proportion of serviced land, not to the number of units.²⁰ This may have the effect that the proportion of units will be more than 25%. One respondent to the consultation stated that the reference to 'land' in paragraph 95 is confusing; does this mean 25% of the site area, or an area of land capable of accommodating 25% of units? While Shelter

¹⁷ 'St Andrews housing needs hindered by developer exploiting plan loophole', The Courier, 14 June 2013

¹⁸ Para. 97, Scottish Government, Scottish Planning Policy: draft for consultation, April 2013, <http://www.scotland.gov.uk/Publications/2013/04/1027>

¹⁹ Highland Council, Affordable Housing Supplementary Planning Guidance, 2008 <http://www.highland.gov.uk/yourenvironment/planning/developmentplans/developmentplanpolicyguidance/affordablehousing.htm>

²⁰ Para. 97, Scottish Government, Scottish Planning Policy: draft for consultation, April 2013, <http://www.scotland.gov.uk/Publications/2013/04/1027>

Scotland would welcome a policy which is capable of delivering a higher number of units than at present, we also recognise the importance of clear and unambiguous policies at national and local level. These ensure that developers and local authorities are clear from the start what can be achieved on site, ensuring that developments with affordable housing contributions are delivered on time and with the full affordable housing element. It is also important to take into account how this could impact on the type of units delivered, and whether these meet the demand for housing that exists locally.

Planning policy at a local authority level

Lower thresholds for affordable housing policies

Although Planning Advice Note 2/2010 (PAN 2/2010) does not set a minimum size of development at which the affordable housing policy should apply, most authorities do not apply their affordable housing policy to developments below a certain size. Aberdeenshire Council does, however, require an affordable housing contribution – via a commuted sum of a proportionately modest scale – for single house developments. In other authorities, the threshold for the affordable housing policy may be set quite low. For example, all developments of four or more houses require an affordable housing contribution of 25% in East Renfrewshire. Similarly, in the Highland Council area, all developments of four houses or more are required to contribute to affordable housing. In Edinburgh, there is no stated lower limit, while in South Ayrshire the lower limit for policy is 15 houses or 0.6 of a hectare.

Commuted sums and off site provision

Most affordable housing policies allow for off-site provision or the payment of a commuted sum in certain circumstances. This is normally on smaller sites, where the management of small numbers of affordable homes could be problematic, particularly if these were social rented units. PAN 2/2010 states that:

“As a general guide, local authorities and developers can normally expect on-site provision to be appropriate for developments of 20 or more units. For smaller developments, on-site provision will also often be possible, though off-site provision or a commuted sum may be appropriate (see paragraph 21). 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.”²¹

²¹ Scottish Government, Planning Advice Note 2/2010: Affordable Housing and Land Audits, <http://www.scotland.gov.uk/Publications/2010/08/31111624/0>

PAN 2/2010 acknowledges that exceptionally sites may be unsuitable for affordable housing for a variety of reasons. These include the size of the site, location, topography, conversion of buildings where relevant standards cannot be met and other local circumstances, such as whether an appropriate tenure mix can be delivered. As a consequence the need for flexibility on the part of local authorities in the use of affordable housing policies is emphasised. Commuted sums are seen as an important part of that flexibility. Developers may offer to provide the contribution on another viable site within their ownership or to provide a commuted sum. However, PAN 2/2010 stresses that this is as long as the proposed alternative will help to meet an identified need in the same housing market area and that commuted sums should only be used sparingly, at the planning authority's discretion. The rationale for accepting or rejecting a commuted sum should be set out clearly in local policy. The commuted sum should be:

“...of a value equivalent to the cost of providing the percentage of serviced land required by the policy. Best practice is that the value should be independently determined by the District Valuer or a chartered valuation surveyor suitably experienced in the type of property and the locality. Wherever possible the relevant parties should agree to appoint and instruct a valuer, failing agreement on which the valuer should be appointed by the Chairman of the RICS in Scotland.”

As well as being used to fund off-site houses in other areas, commuted sums are often used together with second home council tax to supplement grant on other affordable housing locations. This allows more units of social rented housing to be built. Over the 2007/8 to 2011/12 period, commuted sums were involved in a significant proportion (16%) of the total number of affordable units where the planning system has played a part in delivery, although the trend was generally downward.

The issue of how the commuted sum should be calculated has proved problematic. PAN 2/2010 states that:

“The commuted sum is a matter for negotiation between the developer and the local authority, having regard to development costs, other contributions that are being sought, and other relevant factors, for example layout and design. Planning authorities may wish to consider a policy for calculating a commuted sum, but this should be the subject of consultation with stakeholders before being applied.”

There are two main options: site-by-site calculations of what the developer has gained from each additional open market unit they have been able to build, as a result of the commuted payment, or a pre-determined standardised tariff for the council area as a whole, or for market areas within it.

A predetermined tariff is often preferred by house builders, who may for reasons of simplicity and predictability prefer commuted sums to be set at a fixed price, rather than be determined by the interplay of house prices in different areas and the price that a particular RSL could pay for land on a particular site. Some authorities, for example Perth and Kinross, have taken this approach, with commuted payments set to represent the difference between open market site value and the value an affordable housing provider could afford to pay. Both the District Valuer and an independent chartered valuation surveyor advised on the commuted payments. Aberdeenshire Council calculate their commuted payment using a different methodology, although the amount is still fixed for predetermined areas.

In Perth and Kinross, the commuted sum values range from £11,500 in the eastern housing market area to £26,500 in Perth and Perth City Centre, and in Aberdeen Housing Market area £25,000 and £15,000 in the Rural Aberdeenshire Housing Market Area.

The attractiveness and transparency of this approach to house builders is obvious. However, if these tariffs are set much lower than the amount which would be paid if a calculation was made based on the actual difference between open market land values and affordable housing land values, it may make it difficult for local authorities and RSLs to use commuted sums to acquire equivalent land elsewhere. There has been a tendency in recent years for commuted sums to be used to supplement grant, and so to allow more social rented units to be built, but for authorities which need more land for affordable housing, low value commuted sums will not permit new sites to be acquired.

One of our case study authorities also recognised the danger that commuted payments based on a standard tariff which is set too low, may be attractive to developers, who will then tend to press for a commuted sum. There are also issues for local authorities who have a number of different housing market areas within their area. Pre-set tariffs need to reflect the different market realities within the council area. For all these reasons, it is clearly important that these standardised tariffs are set appropriately. The Valuation Office Agency offers a service to authorities who wish to pre-set a standard tariff for affordable housing, and we understand that other advisors also offer such a service.

Shelter Scotland recognises that commuted sums are a complex area of policy. Local authorities should ensure that these sums are at a level equivalent to the value of land for affordable housing in the relevant market area. We believe that there is a need for continuing scrutiny of the value for money they represent for councils, and research to establish best practice.

Preferred tenure

Many authorities have policies which express a preference for social rented housing, which is generally by far the largest category of need in Housing Needs and Demand Studies. However, some authorities have exercised considerable flexibility as to the type of tenure they are willing to consider. Intermediate tenure options have become increasingly common in the range of tenures that local authorities are willing to accept as part of proposed section 75 sites.

Local authorities have found this helpful in practical terms, as the time limitations set with section 75 obligations can sometimes make it difficult to secure social rented housing where grant is not available. For some authorities, the ability to consider instead a low cost home ownership option has meant that affordable housing could be delivered in the period of the section 75 agreement, rather than having to default to a commuted payment.

The key issue for local authorities is the extent to which intermediate tenure housing is affordable to people in housing need, and whether there is demand for the particular tenure type locally. Within this is also important to recognise that the highest level of demand across all Scottish local authorities is for socially rented homes. So, for example, Edinburgh City Council has permitted tenures other than social rent on a high proportion of housing sites. Here, the council is aware of the strong demand for both mid-market rent and equity share tenures, as a result of the very high rents in the private rented sector, and the high costs of buying on the open market. Low cost home ownership projects in Edinburgh are required to cost no more than 3.5 times median income in the city at the time the scheme is to be built. So, for example, in 2011, shared equity units with 60% of the equity offered, and the remainder held by the developer, would require to be marketed with the 60% share priced at no more than £122,528.

Another form of low cost home ownership which has proved successful, and popular, is 'golden share' unsubsidised low cost home ownership used by both Edinburgh City Council and Aberdeenshire Council. The selling price of these products is pegged at around 80% or 60% of market value in perpetuity; this is done by attaching a missive to the title deeds. They have proved extremely popular as the product meets an identified need, particularly in the highly pressured Edinburgh housing market. However, knowledge of the product is not great amongst mortgage lenders, with only one lender currently

offering products suitable for golden share developments. This is surprising as should a lender require to repossess and sell a golden share property, they would be able to access 100% of the market value of that property, if the value of the 80 or 60% share has fallen.

Other authorities have exercised flexibility about tenure, but have had problems with take-up. Both Perth and Kinross Council and East Renfrewshire Council had an experience of a low cost home ownership project which proved unaffordable to people in housing need. Subsequently, they used this experience to ensure that developments were set at a cost which met the needs of a proportion of those in housing need.

Knowledge of the income levels of households in housing need and of other open market options available to them is clearly critical. Before agreeing to a development with an intermediate tenure option, such as low cost home ownership, local authorities should make sure they have a good understanding of the local market, to ensure maximum take up. However, it is also important to not become over-reliant on intermediate tenures given that overwhelmingly the greatest demand is still for social rent.

Rural exceptions policies

Rural exceptions policies can allocate land for affordable housing which would generally not receive planning permission if it were for market housing only. Land may be considered unsuitable for developments due to factors such as the land not being part of a settlement and/or being in area of landscape sensitivity. The current SPP says no more than:

“Planning authorities should consider whether it is appropriate to allocate some small sites specifically for affordable housing.”²²

This is echoed in PAN 2/2010, which presents as a further option:

“Allocating new sites in local plans specifically for affordable housing to meet requirements identified in the HNDA and LHS. This approach is most likely to be appropriate for small scale sites within or adjoining existing villages to provide for locally arising needs.”

²² Homes for Scotland has commented that several local authorities allocated sites solely for affordable housing under the previous local plan system but that frequently they were not developed. Their experience was that this was not the best route for delivering affordable housing. It is not clear what factors lay behind this – whether landowner resistance, site quality etc.

However, the draft SPP uses the term 'rural exceptions policy' for the first time in Scotland,²³ making reference to the exceptional nature of the sites:

"Where significant unmet local need for affordable housing has been shown, it may be appropriate to make provision for consent to be granted for affordable housing on sites which would not normally be considered for housing development. The plan should indicate where any such 'rural exceptions policy' applies."

This is a more specific reference than what was previously said about rural housing needs in the current SPP: "Detailed policies on how the affordable housing requirement for an area is expected to be delivered, including an indication of any different approaches needed for urban and rural areas, should be set out in supplementary guidance. In rural areas, and increasingly in urban areas, innovative and flexible approaches will be required to deliver affordable houses in suitable numbers."²⁴

There appears to have been relatively little comment on the introduction of specific rural exceptions policies in the draft SPP. Responses to the consultation on the revised SPP included a couple of comments: allocating affordable housing on land "which would not normally be considered for housing development " would appear to be sending out a poor message, and allocating land specifically for affordable housing has proved unpopular with developers.

Guidance in Scotland – including PAN 2/2010 – has to date offered very little advice on how such a policy might operate. In England Planning Policy Statement 3 suggests what type of sites may be selected, and places considerable emphasis on local needs being met on such sites, and the need for affordable housing in perpetuity to be provided. Explicit rural exceptions policies have been a feature of planning policy in England for some time. Thus the Taylor report²⁵ includes a chapter which examines mechanisms to provide housing in the smallest villages to meet local needs. In smaller rural communities, of less than 3,000 people, the report emphasises that it is the future of a small number of houses that counts:

²³ Para. 98, Scottish Government, Scottish Planning Policy: draft for consultation, April 2013, <http://www.scotland.gov.uk/Publications/2013/04/1027>

²⁴ Para. 87, Scottish Planning Policy, Scottish Government, 2010
<http://www.scotland.gov.uk/Publications/2010/02/03132605/0>

²⁵ Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing , Matthew Taylor for DCLG, 2008

“In smaller rural communities, the key issue is whether those who work locally, wish to work there, or have worked in the community, who have often grown up there and receive typical local wages, can afford to live there. It is about whether such local employees or those with local connections can have the opportunity, or the hope, of affording a home to rent or buy in that community. In these communities, it is locally made decisions about half a dozen or a dozen homes that matter and are crucial to the sustainability of those communities...”

The report points out that finding sites around small villages suitable for affordable housing – with landowners willing to sell for affordable housing prices – is often built on strong community support, and local contacts. It considers that the exception sites approach is especially well suited to working through the community to bring forward sites. The importance of rural exceptions sites in England can be seen in Housing Corporation figures quoted in the report, which showed that at least 37 per cent of affordable housing development in towns below 3,000 in population were secured through the use of an exceptions policy. For communities under 1,000, at least 57 per cent of all Housing Corporation supported affordable homes were on exception sites. The report stresses the growing experience of using exception sites, and points to many good practice lessons which can be followed to secure the support of landowners and the community, and lead to such sites being supported by the local community.

The introduction of the term ‘rural exceptions sites’ in Scotland brings with it a need for some explanatory guidance, focusing particularly on the issue of ensuring that housing built on exceptions sites meets local needs and is maintained in perpetuity. In considering the relevance of the strong positive messages of the Taylor Report for Scotland about exceptions sites, we need to take into account the slightly different policy background with regard to rural development in Scotland. The policy on housing in rural areas set out in the SPP offers considerable flexibility to authorities who wish to have a relatively permissive approach to houses in the countryside and in the remoter rural areas. However, the rural development policies are explicitly driven by economic development and population maintenance considerations, not the need for affordable housing. We believe that it is rare for the policy to be used to provide affordable housing for those identified as in housing need, although houses built outside settlements may well meet the needs of people living locally in the rural community, particularly those in farming families.

Scottish Planning Policy is more restrictive in more accessible and densely populated rural areas, where it stresses that most new developments should be in or adjacent to

settlements; it seems likely that it will be here that rural exceptions policies will have the greatest role to play.

Land values

When Planning Advice Note 74²⁶ was released in 2005, it introduced the principle that affordable housing contributions should generally be in the form of land, and that land should be transferred to an affordable housing provider at below market value:

“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 conventional method of valuation of development land is on the basis of its value after allowance has been made for all costs of development and the value of the development which the developer can create on the site, which is generally based on sales values – this is the land’s ‘residual value’.

When the purchaser is an RSL, the level of grant has a strong impact on the amount that can be paid for a site. Thus, the recent grant reductions resulted in some land for affordable housing being transferred at zero value. This did not appear to have been an obstacle to the development of successful schemes in most cases, although there were some problems where the site had already been acquired by a developer at a value that reflected the assumption that the value for the land for affordable housing would be at a level which reflected the previous higher grant levels. Further, it is the policy of the City of Edinburgh Council²⁷ that land for affordable housing is by custom transferred at zero value, and this has not proved problematic.

Could the transfer of land for affordable housing at zero value on section 75 sites offer a way of reducing the grant cost of individual affordable housing, and so allow the grant funding to be stretched further? We believe that, as the Edinburgh experience has shown, this is a viable option in higher value areas, and thus that this is a policy option which should be considered in areas of high residential values.

²⁶ Scottish Government, Planning Advice Note: PAN 74 affordable housing, March 2005
<http://www.scotland.gov.uk/Publications/2005/03/20796/54073>

²⁷ Edinburgh City Council, Affordable Housing Practice Note, 2011
http://www.edinburgh.gov.uk/downloads/file/5067/ahp_practice_note_2011_annual_update

We also consider that grant levels should reflect the fact that land for affordable housing on section 75 sites is transferred at a value for affordable housing – which is lower than open market value and influenced directly by the level of grant.²⁸ That view is strengthened by some anecdotal evidence that the recent rise in grant rates has fed into higher land values. In practice, lower grant rates for section 75 sites would generally result in zero land values.

However, in practice, the increasing tendency for developers to negotiate design and build arrangements with RSLs has reduced the number of land transfer situations, and so this model has less general applicability than might have been the case some years ago. Currently, it is often more attractive for the developer to provide completed units, earning some profit on the construction of the houses, and so some return on the affordable housing element of the project. The RSL finds this arrangement acceptable as long as it gets the number of affordable houses it requires, to the required standard, within the total sum (including grant) available to it for the land and construction. That total sum will then pass to the developer, although there may be an apportionment which allocates a sum to the land and a sum to the buildings.

Infrastructure

It is impossible to consider the viability of housing sites solely in relation to affordable housing requirements. Many sites have substantial requirements for infrastructure – roads, schools, landscaping, public transport facilities – without which the development simply cannot proceed. This is something that Perth and Kinross Council emphasised, particularly where the uplift from agricultural value across the site is minimal. In their experience land for affordable housing could come to a negative value after infrastructure was taken into account. There is a risk here that where developments prove not to be viable because of the cumulative burden of all these requirements, it will be the affordable housing element which will be scaled back. Therefore Shelter Scotland strongly supports an integrated approach to affordable housing and infrastructure planning, and particularly commend approaches which at the development plan stage select housing sites, taking into account the cost of infrastructure provision.

Sharing knowledge and expertise

The delivery of affordable housing through the planning system is a specialised and complex area of practice, carried out by a relatively small group of practitioners. Our case

²⁸ There is some recognition of this potential in the Housing Supply Guidance Note 2014/01, which notes that below benchmark subsidy is possible where development costs are low, for example where the build is straightforward and land conditions and other factors are favourable.

study work has made us aware of the amount of knowledge, often of very detailed aspects of the system, and of good practice held by individual authorities and other practitioners. There is a need to make best use of that knowledge through spreading and promoting best practice. While ideally each authority would have its own affordable housing enabler, this may not be possible for smaller authorities. Sharing services between local authority areas is one approach, as is the case in Aberdeenshire, Aberdeen, Moray and the Cairngorms National Park, where a team of three specialist officers advises on all planning gain matters. There are also signs that some providers are attempting to meet the need for training – for example the Improvement Service in Scotland and the Royal Town Planning Institute both offer courses on affordable housing policies. We are also aware of the joint work which has recently been initiated by the Heads of Planning Scotland (HOPS) and Association of Local Authority Chief Housing Officers (ALACHO) in relation to affordable housing and planning.

Shelter Scotland believes that there is a case to build on this and develop a new model of best practice dissemination, which would allow new and emerging practitioners to learn from the most experienced in Scotland. One model which could be replicated for affordable housing delivery is the Scottish Government funded Empty Homes Partnership, hosted by Shelter Scotland. This involves salary and seed corn funding for one member of staff, the Empty Homes Co-ordinator, who is hosted and managed by Shelter Scotland. The work of the partnership has evolved to include a mixture of shared service projects, officer networks, and one-to-one support for councils. The Empty Homes project has developed a paper guide, website²⁹ and digital network, and arranges seminars and events, as well as one to one meetings, and engagement with the private sector – all elements which would be relevant to affordable housing and planning.

²⁹ Shelter Scotland, Empty Homes Partnership
http://scotland.shelter.org.uk/housing_policy/empty_homes

Conclusions and recommendations

The planning system plays an important role in the delivery of affordable housing in Scotland

Perhaps more important than previously realised; around a third of all affordable units granted consent between 2007/08 and 2011/12 involved a contribution from the planning system, and the overall trend during this period was upward. The role of the planning system varies from place to place, and in around a quarter of authorities the planning system appears to have played no role in delivery. In general these were authorities in west central Scotland or were island authorities. By contrast, in some authorities the majority of new affordable housing sites are secured through the planning system. In Edinburgh, some 57% of all affordable units delivered since 2010/11 were delivered through the planning system. We also found that very few local authorities currently require more than the 25% 'benchmark' contribution stated in current planning policy. Where they do, some have encountered difficulties securing a contribution higher than 25%.

It is important to understand and track how much of a role the planning system plays in securing affordable housing. The statistical bulletin on affordable housing securing planning consent was recently discontinued, for a number of reasons, and while there is data available on publicly funded affordable housing in the Affordable Housing Supply Programme, there is no overall source of information about the full range of affordable housing in which the planning system plays a part.

Shelter Scotland would like to see a revised and refreshed Planning Bulletin on Affordable Housing published annually.

This would be an opportunity to make some changes, to make it even clearer whether planning policy has played a role in the provision of affordable housing on particular sites. A new statistical publication should record delivery rather than consent, and so provide information on the type of tenure provided on sites delivered by the planning system.

The recent draft SPP from the Scottish Government could reduce delivery of affordable housing through the planning system

In the draft it is suggested that the affordable housing contribution generally be 'no more than 25%', instead of 25% being considered a 'benchmark'. While it may be helpful for developers to have a maximum, rather than a 'benchmark' figure set, Shelter Scotland is concerned that this might reduce the amount of affordable housing delivered through the planning system. Our concern is that a 25% maximum might result in pressure from

developers to reduce delivery of affordable housing, even in areas where a 25% contribution is currently viable in the local housing market, or may become viable in the near future.

We would like to see a form of wording which recognises that there are many locations in more pressured housing markets where experience has shown that 25% is viable and can be regarded as the appropriate target.

The Scottish Government's draft SPP also suggests that specialist housing – including open market housing for older people – should be exempt from affordable housing contributions. Shelter Scotland believes that this may impact on the provision of affordable housing through the planning system by distorting the market for housing sites. Some local authorities – such as Edinburgh City Council – strongly disagreed with its inclusion in the draft SPP.

It is our view that this decision should be left to each local authority, reflecting the particular circumstances of their area, and not be part of national planning policy.

More work needs to be done to understand the role of intermediate tenure

Our research revealed a growing emphasis on various forms of intermediate tenure, and innovative models such the National Housing Trust model and 'golden share' developments. The golden share type of unsubsidised low cost home ownership was particularly commended by two of our case study authorities. However, only one lender currently offers a suitable mortgage product for this type of housing.

Shelter Scotland believes that there is a case for these new models and their attributes to be described fully in the Planning Advice Note on affordable housing delivery. We would also like to see more lenders offering products suitable for 'golden share' developments.

Local authorities also identified that understanding the market for intermediate tenure is important. This allows authorities to ensure that they are satisfying an unmet need, and that the units will be bought or rented by people whose options were limited. In some places, there have been difficulties with intermediate tenure due to a lack of demand in the local area for the particular tenure type.

Local authorities need to have a clear view of the scale and level of demand for this type of housing, and there is a need for reliable sources of information.

We were impressed by Aberdeenshire Council's aspiration to build on the information collected by the local common housing register, to generate a list of applicants interested in this type of housing, and their income levels. Shelter Scotland welcomes innovations of this type.

We would like to see better information on intermediate tenure affordable housing delivered through the planning system as part of a 'refreshed' planning bulletin on affordable housing.

More guidance is needed on the use of rural exception policies

In the draft SPP, the term 'rural exceptions' policies is used in Scottish planning policy for the first time. Rural exceptions policies need to be seen in the context of the particular approach to rural housing development adopted in Scotland and are most likely to be relevant in areas of restraint, such as national parks, more densely populated areas and areas nearer cities.

There is a need for further guidance as to how rural exceptions policies should operate in Scotland.

The emphasis of this guidance should be on affordable housing being provided in perpetuity for people with a local connection. There is a wealth of good practice from England in the Taylor report,³⁰ including suggestions about how landowners may be encouraged to contribute sites and local residents to support development.

Consideration needs to be given to land value and grant issues on planning gain sites

The lower the value at which land for affordable housing is transferred, the less the requirement for grant, and so the more units which can be provided for the same amount of public money. At least one authority in Scotland – Edinburgh – has a policy which requires serviced land for affordable housing to be transferred at nil value. This may be a policy which could work well in other areas where the value of the land for mainstream housing is high, and which some other authorities may wish to consider. Grant rates in

³⁰ Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing, Matthew Taylor for DCLG, 2008

Scotland have recently risen for affordable housing developments, after an earlier cut. It is a concern that there is some anecdotal evidence that the higher grant levels appear to be feeding back in to higher land values for affordable housing units on section 75 sites.

Guidance should make it clear that increases in grants should be used to secure a higher proportion of affordable housing or a higher proportion of houses for social rent, not higher land values.

A case could be made for lower grant rates for affordable housing delivered through section 75 obligations. This is because the land should be transferred 'at a value for affordable housing', and therefore should result in lower costs to the RSL than on sites delivered without a section 75 obligation. However, in practice, RSLs tend to target lower value sites for non section 75 developments, where they face less competition from mainstream developers.

Commuted sums should be set high enough to allow social housing providers to acquire equivalent sites

There have been problems with commuted sums and offsite provision. Developers like clear policies in relation to commuted sums – fixed sums per unit of affordable housing. However, this can be difficult where there are many different housing market areas in the local authority area, and a standardised sum may not high enough to buy land in the higher price areas. Commuted sum tariffs which are set too low may also encourage developers to negotiate for a commuted sum.

Commuted sums should only be used in appropriate circumstances and should be set high enough to ensure that RSLs and councils would have enough funds to acquire appropriate sites to replace those given up.

Infrastructure costs need consideration

Infrastructure contribution policies need to be considered at the same time as affordable housing policies, as both draw on and compete for the same pot of development value.

Shelter Scotland would like to see sites selected in the development plan process which minimise infrastructure costs.

This would make it possible for affordable housing policies to be delivered, and for transparent infrastructure policies which allow the viability of affordable housing policies to be assessed.

Good practice needs support and dissemination

The delivery of affordable housing through the planning system is a specialised and complex area, and a relatively small number of practitioners have the knowledge and experience to negotiate with developers and to make it work effectively. There is a great deal of knowledge, often of very detailed aspects of the system, and of good practice held by individual authorities and other practitioners.

There is a case for a network or partnership to promote best practice and innovation in the delivery of affordable housing through Scotland's planning system.

A support model which could be considered is the one used by the Empty Homes Partnership hosted by Shelter Scotland.³¹ This would serve to bolster the already impressive contribution the planning system makes to affordable housing delivery in Scotland.

Contact:

James Battye, Policy Officer, Shelter Scotland

Email: james_battye@shelter.org.uk

Tel: 0344 515 2463

³¹ Shelter Scotland, Empty Homes Partnership
http://scotland.shelter.org.uk/housing_policy/empty_homes

Appendix 1: The evolution of affordable housing policies in Scotland and England

Introduction

This section explores how affordable housing policy has evolved in Scotland, and how that compares with policy in England. There is general acceptance that less use has been made of the planning system to secure affordable housing in Scotland than in England. More than ten years ago in 2002, Madhu Satsangi and Kathleen Dunsmore³² argued that:

“Not everything is different between planning for affordable housing in rural areas of England and Scotland. The fundamental similarity is of development economics - what makes (affordable) housing provision viable depends on its cost and the nature of demand, supported or otherwise though capital subsidy ... As a generalisation, English use of the planning system to provide affordable housing has been more proactive than the Scottish model, where despite good intentions, there seem as yet to be few positive results.”

6 years later in 2008, Newhaven Research reached a similar conclusion, and indeed took a more negative view about the potential of affordable housing policies. In a report for the CIH in Scotland³³ *All Pain, No Gain: Finding the Balance – Delivering Affordable Housing through the Planning System in Scotland*.

Newhaven stated that:

“The development of affordable housing policies in Scotland has proved traumatic, and few believe the approach has provided value for money. Scottish delivery to date using affordable housing policies appears to have been extremely modest.”

The report argued for monitoring of Affordable Housing Programme (AHP) implementation to ensure compliance, and in the longer term to ensure that information is available to assess the impact of the AHP approach.

³² Affordable Housing in Rural Areas of Scotland and England: Devolution, Planning and the Right to Buy, Satsangi, M and Dunsmore, K, Paper to the Housing Studies Association, April 2002

³³ All Pain, No Gain? Finding the Balance: Delivering affordable housing through the planning system in Scotland. Newhaven Research for CIH, January 2008

While the statistics collected by the Scottish Government in the statistical bulletin on affordable housing³⁴ make it possible to estimate how many houses have gained consent as a result of such policies from 2006 onwards, it is still not possible to establish how many have been built. The statistical bulletin 'Affordable Housing Securing Planning Consent' focused solely on the grant of consent, not on delivery.

Following stakeholder consultation the affordable housing securing planning consent survey has now been discontinued. The final year of data appeared to suggest that over the last five years, a third of affordable homes have had a contribution of one kind or other from the planning system, and the trend has been slightly upwards to 37% in a couple of years - this despite the manifest difficulties in the house building sector.

What is clear then, is that the use of the planning system to secure affordable housing developed later in Scotland, but now accounts for a quite significant part of the number of affordable homes granted planning consent

Planning and affordable housing policy in England

The evolution of policy and delivery in England is well documented in a series of reports by Crook et al. The 2002 report for the Joseph Rowntree Foundation 'Planning Gain and Affordable Housing: Making it Count'³⁵ documents the early evolution of the policy. The report suggests that local authorities had been experimenting with ways of using the planning system to secure affordable housing in a number of areas in England in the 1970s. Official government endorsement came later, in 1979, when the rural exceptions policy was announced.

This enabled rural planning authorities to grant planning consent for housing on sites that would not otherwise receive permission, provided that only affordable housing is developed on them. The approach was more widely sanctioned to enable affordable housing to be secured on all larger housing developments in 1981. It was then included in the various versions of the Planning Policy Guidance on housing (PPG3) since 1981, in 1992 and 2000.

Provided that local planning authorities have policies in their adopted statutory development plans that assess the need for new affordable housing in their districts, they

³⁴ Statistical Bulletin, Planning Series: Affordable Housing Securing Planning Consent, Scottish Government, <http://www.scotland.gov.uk/Topics/Statistics/Browse/Planning/Publications> - to be discontinued in 2013/14

³⁵ Crook, T, Currie, J, Jackson, A, Monk, S., Rowley, S., Smith, K., and Whitehead, C

may require private developers to contribute to meeting this need. They may also set specific targets to be achieved on sites allocated for new housing in adopted plans.

In 2006, the successor policy PPS 3 and the accompanying document 'Delivering Affordable Housing', further emphasised the role of the planning system in delivering affordable housing. For the first time this contained an explicit policy reference to the provision of housing without grant, citing in 'Delivering Affordable Housing' the Housing Corporation's approach for paying grant on sites where affordable housing is required. This included a stated preference for affordable housing on section 106 sites³⁶ to be delivered without grant input from the Corporation when economically viable. A preference was also stated for grant from the 2006-2008 programme to be used only to achieve additional outputs of quality or scale. Delivering Affordable Housing makes explicit reference to the appraisals it will carry out to help ensure that it receives value for grant from section 106 sites; i.e. that grant delivers additional benefits and does not artificially inflate land prices.

By 2011, with a new UK Government, and with a shift in emphasis away from social rent, the expectation was stated that section 106 schemes could be delivered at nil grant input for both affordable home ownership and for affordable rent. The underlying assumption was that the price paid by housing associations will be no more than the capitalised value of the net rental stream of the homes. This means that affordability will be required to be built into the overall economics of the development, adjusting the land price as necessary. Again, it was reiterated in the 2008-2011 National Affordable Housing Programme Prospectus that if Homes and Communities Agency funding is requested on section 106 sites, evidence will be needed that this will result in provision of additional affordable housing, which would not otherwise be delivered.

"Our aim is to provide grant where this is purchasing additional affordable housing outcomes, and where the level of developer contribution represents an appropriate response to the site economics. We will not fund the simple purchase by a housing association of affordable housing delivered with developer contributions through a planning obligation."

There is no recent research evidence on the extent to which nil grant policy has been applied on s.106 sites. The 2011 article *Planning Gains, Providing Homes* by Tony Crook

³⁶ These are equivalent to section 75 sites in Scotland, where a developer is required to make a contribution towards affordable housing on a site which has been given planning permission to build residential housing.

and Sarah Monk suggested that three quarters of affordable homes on s106 sites have needed social housing grant (SHG) since 1999-2000, with most affordable dwellings funded by a combination of developer contributions, public subsidy (SHG) and housing association loans and reserves.

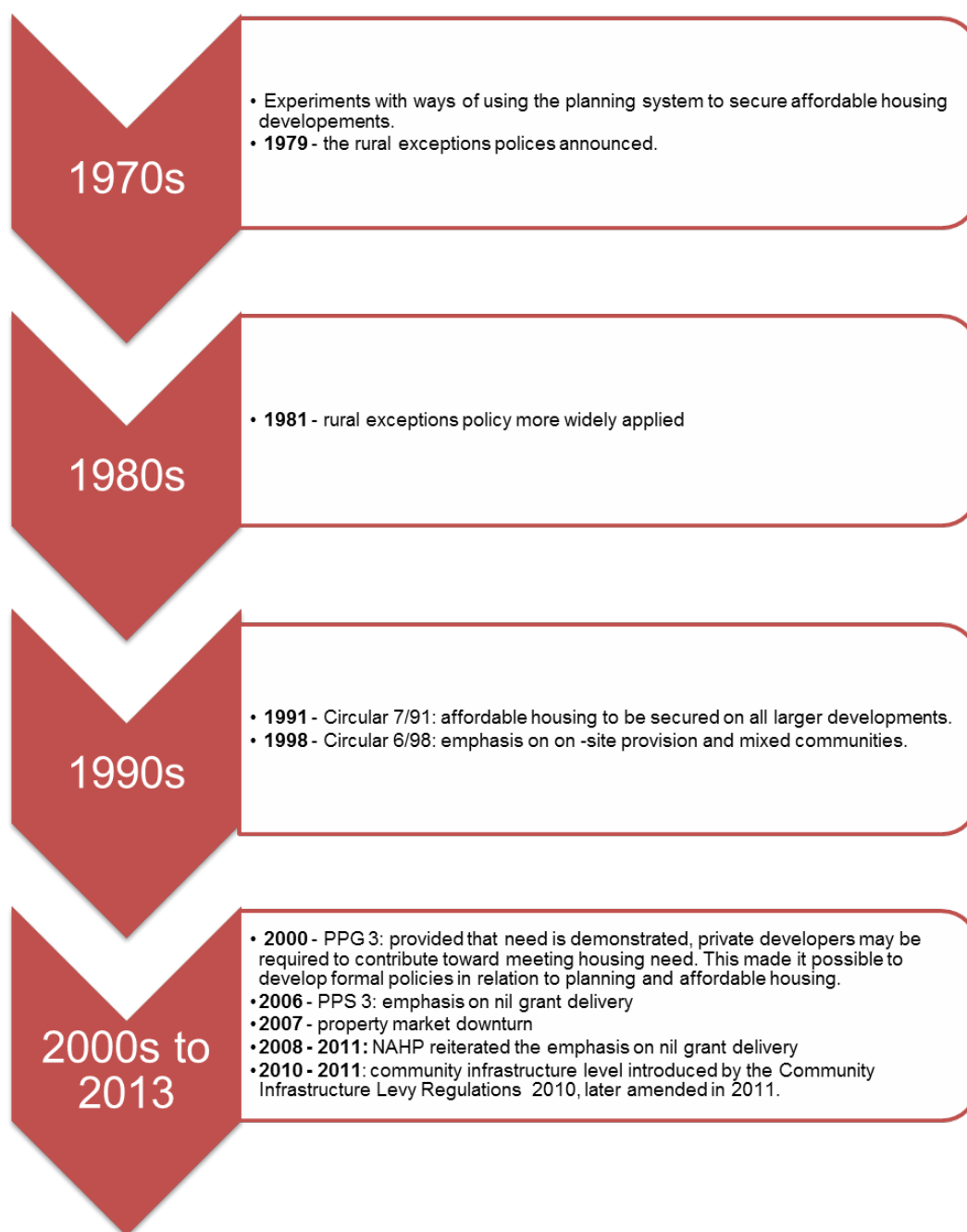
However, the importance of affordable housing policies in England in securing affordable housing is not in dispute. The same article provides data on completions on s106 sites as a proportion of all affordable housing between 1999-00 and 2008-9. By the last three years of the period, some 60% of affordable houses were delivered in that way. The authors conclude that:

“S106 has mainly been a mechanism to secure land where housing need is greatest, with some developer funding ‘stretching’ public funding.”

The authors ask the question who actually pays for planning gain contributions – developers, landowners, purchase of market housing, or a combination of the three. They conclude that:

“The evidence of the current study suggests that where LPAs have clear policies and where national developers are involved, the latter are able to pass their obligations on to landowners. Thus it is possible to conceive of planning gain as a site specific, locally negotiated betterment levy on development value, which is hypothecated to meet local need through enforceable contracts. This approach to taxing development value has almost certainly raised far more than each of the three previous attempts to tax betterment through nationally determined and levied taxes.”

Development of affordable housing policies in the planning system: England and Wales



37

³⁷ Sources: 'Planning Gain and Affordable Housing: Making It Count', Crook, Currie, Jackson, Monk, Rowles, Smith and Whitehead, 2002 and 'All Pain, No Gain? Delivering affordable housing through the planning system in Scotland', Newhaven Research for CIH, 2008

Planning and affordable housing policy in Scotland

During the 1990s, there was little or no use of the planning system to secure affordable housing in Scotland. A report on the role of the planning system in the provision of housing in 2001³⁸ stated that:

“While there is a strong interest among many local authorities in making more positive use of the planning system to secure affordable housing and considerable activity in terms of local housing needs surveys, practical examples of use of planning powers for this purpose are limited in Scotland and current policy guidance is not very clear on this issue.”

NPPG 3 had been published in 1993 and revised in 1996.³⁹ Described by Professor Glen Bramley as ‘permissive but relatively vague’, NPPG 3 accepted that where the need for affordable housing has been demonstrated, the planning system can legitimately assist with the provision and retention of such housing and that planning authorities may properly take account of the need for affordable housing when formulating their development plan policies. However, it indicated that before policies for the provision and retention of affordable housing are included in development plans, the local need for such housing must be clearly established.

Local housing authorities were given a duty to assess the overall housing needs of their area, including affordable housing, and to liaise with Scottish Homes on this issue. The revised NPPG 3 stated that the distribution of need for affordable housing will not be evenly spread throughout an area and this should be reflected in structure plan policies. It suggested that:

“Where a planning authority's policy is to provide for a proportion of affordable housing, it should be justified in relation to individual settlements or small local areas within settlements. Planning authorities cannot expect local plan policies to be upheld if they seek to impose a common quota or target on developers

³⁸ The Role of the Planning System in the Provision of Housing, School of Planning and Housing, Edinburgh College of Art in association with the Department of Building, Engineering and Surveying, Heriot- Watt University, Scottish Executive Central Research Unit, 2001

³⁹ NPPG3 Land for Housing, Scottish Office, 2006

regardless of market or site conditions, or where they are not based on evidence of need.”

This last point was problematic, in the light of the growing awareness of the existence of broader functional housing market areas, and in the context of the cost and difficulty of generating evidence of housing need at a very local level.

City of Edinburgh Council Affordable Housing Policy

The City of Edinburgh Council was one of the first councils to introduce a fully developed affordable housing planning policy, with a draft policy for consultation published in November 2001. It contained strong, clear and detailed requirements for quotas in different parts of the city, with the variation in requirement reflecting in part the requirements of NPPG3 and in part the different tenure balance in different parts of the city. The policy was informed by experience south of the border, in cities such as York.

Several other councils – particularly in pressured rural areas in Scotland – followed Edinburgh to introduce policies, but not all authorities did so.

Scottish Planning Policy 3 (SPP3)

In 2003, NPPG 3 was superseded by SPP3, which reinforced the role of the planning system in the provision of affordable housing, and introduced for the first time a ‘benchmark’ for the proportion of housing which should be affordable, set at 25%. The role of this benchmark was somewhat unclear, in view of the continuing requirement to carry out housing needs assessments, which might well suggest a different level of quota.

Planning Advice Note 74 (PAN 74)

The PAN 74, issued in 2005, contained more detailed advice. It clarified the role of the planning system in supporting the delivery of new affordable housing in Scotland, and embedding affordable housing policies within development plans. It also retained the benchmark figure. Moreover, PAN 74 is also explicit on the scale of contribution to be sought, specifying that:

“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 an 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”

Valuation relating to an end use for affordable housing has proved troublesome and contentious, with most valuers taking the position that the residual value is determined by the availability or otherwise of grant.

PAN 74 also notes that sites will not always fall within areas that will secure development funding for RSLs and that this may necessitate an alternative type of developer contribution, such as market housing at discounted prices, houses for social rent or shared equity ownership or (exceptionally) land elsewhere or a commuted payment, all of which should be of a value equal to the cost of providing the percentage of serviced land required by the policy.

Scottish Planning Policy 2010

The consolidated Scottish Planning Policy (2010) which brings together planning policy for the whole range of land issues re-iterated the policy of SPP3, albeit in a more condensed form. The benchmark of 25% remained, but SPP explains that if a different percentage is required locally, justified by the housing need and demand assessment and identified in the local housing strategy and development plan, then the 25% benchmark does not apply.

Revised Scottish Planning Policy

SPP has recently been the subject of consultation on a revised version. The revised draft contains a number of proposed changes to the national policy framework with regards to affordable housing, including a change to the 25% benchmark and changes to the application of policy to specialist housing. These changes are discussed in more detail in the main report. The current position (Feb 2014) with regard to the proposed changes is that the Scottish Planning Policy Scottish Government Position Statement issued in January 2014 indicated that consideration was being given to retaining the proposed approach to affordable housing in the final SPP, which will be published in June.

Planning Advice Note 2/2010 (PAN 2/2010)

Also issued in 2010, this is the successor document to the detailed advice note PAN 74. It sets out the types of housing which may be considered affordable, introducing the new category of mid-market or intermediate rent, as well as unsubsidised housing for sale. The requirements for land transfer at a value relating to end use for affordable housing are re-iterated.

Other developments since PAN 2/2010

Letter requesting flexibility in application of affordable housing policies

In March 2011, the Chief Planner wrote to Heads of Planning, making reference to his earlier letter of October 2009, which had stressed the importance the Scottish Government places on removing constraints to the development of housing land in the current economic climate, and also making reference to the significantly lower levels of public funding that are likely to be available to support the development of affordable housing in the coming years.

In the light of these circumstances, he suggests that authorities should consider:

- *Whether contributions of 25% or more are likely to be deliverable in the current economic climate. Levels of affordable housing development that act to stifle overall levels of housing development are likely to be counter-productive, and in some cases to cause development to stall*
- *The nature of housing need in an area and the extent to which this can be met by proposals capable of development with little or no public subsidy. It is counter-productive to secure land for proposals requiring high levels of subsidy unless the authority is confident that a source for this subsidy can be identified.*

The letter concludes by mentioning an awareness that some development plan policies already build in a consideration of development viability⁴⁰, and that many authorities have demonstrated a willingness to work flexibly. It concludes by stating that nothing in the letter should be taken as a change in the Scottish Government's policy on the role of the planning system in delivering affordable housing, but rather emphasises the need for realism and flexibility, which is already written into the SPP.

Grant changes

There have also been substantial changes in the amount of subsidy made available to RSLs and local authorities, as a result to the drive to achieve higher output from public funding for housing, first discussed in 'Housing: fresh thinking, new ideas', issued in 2010.

The financial capacity, affordability, and development subsidy working group⁴¹ reported in 2013 that prior to 2010, each RSL development project was assessed independently, with

⁴⁰ Although this is not a formal requirement in Scotland, as it has been in England since introduced in PPS3 in 2006.

⁴¹ Report of the Financial Capacity, Affordability and Development Subsidy Working Group., June 2013

grant subsidy calculated as the difference between approved costs of the project and the amount of borrowing that could be supported by social rents. The average social rent subsidy was over £85,000 in 2007/08 but had been reduced through a revised subsidy calculation methodology to (typically) about £70,000 per unit by 2010.

In 2010, the Scottish Government introduced a benchmark of £40,000⁴² per unit for RSL developments, much closer to the flat rate maximum of £30,000 per unit which already applied for council house developments. This equated to a 53% cut to the 2007/08 grant subsidy level for RSLs.

The working group report explained that a rationale for this change was research by Heriot-Watt and York Universities⁴³ which advised that in the current economic climate it was reasonable for Government to expect RSLs, like councils, to cross-subsidise their own developments where they could afford to do so; and that there existed sufficient financial capacity across the RSL sector to deliver a continuing substantial programme at £40,000 per unit subsidy *if those RSLs with capacity chose to invest all of it into supporting new developments*.

However, the working group conclude that RSLs now face many financial pressures not foreseen in 2010, including: potential increased costs and lost income through Welfare Reform; a growing pensions deficit; the effects of the VAT increase in January 2011; and other priorities, including commitments to enhance the quality and energy efficiency of existing stock. Councils were also said to face many of the same growing financial pressures, as noted below.

As a result, the working group advised that current benchmarks for RSL developments were only viable for a small number of associations on an on-going basis, and there would not be sufficient capacity for a programme of 4,000 social units per year to be delivered by RSLs and councils without a significant increase in subsidy rates and/or rent levels.

⁴² The £40,000 benchmark applied to both social and intermediate tenure housing. In 2011, a new system acknowledged that social rent developments required higher subsidy than mid-market rent, and the social rent benchmarks were set at £42,000 (in urban areas), £43,000 (in most rural areas) and £52,000 (in the island authorities and the remote west of the Highlands and Argyll). At the same time an additional £4000 was introduced for homes built to a higher standard of energy efficiency.

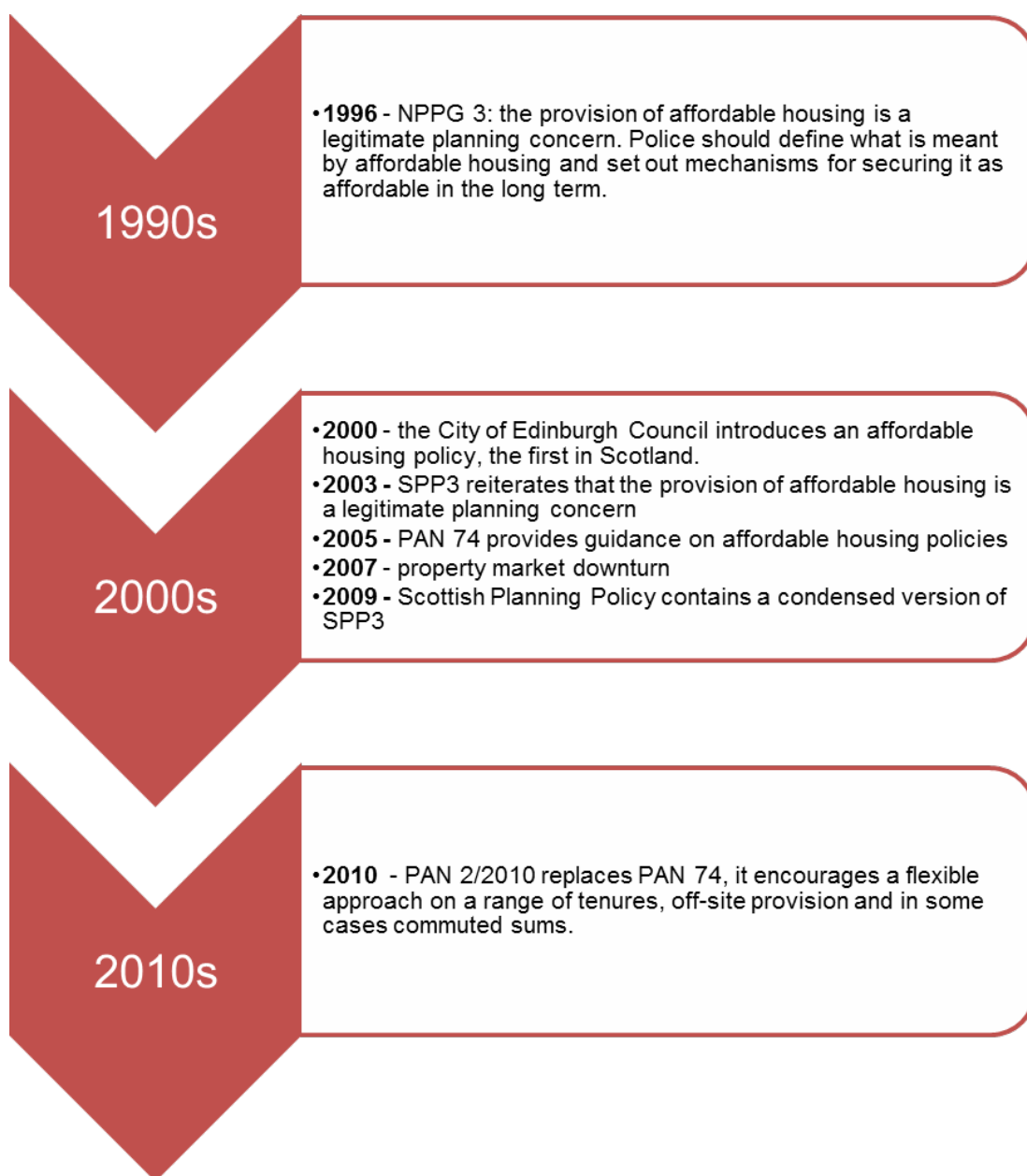
⁴³ <http://www.scotland.gov.uk/Publications/2010/11/11115938/0> Note that at the time, the numerical conclusions of this work were not fully accepted by the RSL sector.

The working group recommended that all the social housing benchmarks set out in the 2012 guidance should be increased by at least £10,000 and preferably by £16,000 per unit. The Scottish Government then announced increases of £14,000 for some projects to allow these to continue.

The report highlighted evidence that many councils were contributing significant sums, either in cash or other forms (i.e. s.75 commuted payments and transfer of land), to RSL projects, and recommended additional work aiming to identify and to share examples of best practice, for dissemination to the affordable housing field. It did not however, recommend that grant should be lower in these circumstances – one possible conclusion – although it did include the conclusion that where costs are unusually low, the RSL or council should only be entitled to partial subsidy and recommended further work to determine how these cases will be identified.

When grant rates were raised again, in July 2013, there was no requirement that the additional grant should be used to procure additional units – or units for social rent where without the higher grant, only intermediate tenure options would have been possible. Without such conditions being set, there was always the possibility that higher grant rates would feed back into higher prices paid to landowners – the way residual valuations work means that any additional income, such as higher grant, will tend to feed through into the residual land value. There is some evidence that this is what has happened.

Development of affordable housing policies in the planning system: Scotland



44

⁴⁴ Source: 'All Pain, No Gain? Delivering affordable housing through the planning system in Scotland', Newhaven Research for CIH, 2008

Appendix 2: Local authorities' experiences of delivering affordable housing through the planning system

These accounts are based on evidence provided by our four case study local authorities. These were gathered through both interviews, and local authorities' own written accounts of how their affordable housing policies operate.

Edinburgh City Council

Local housing need

In the Edinburgh area there is a need for houses of all sizes and tenures – as set out in the housing needs and demands assessment. For example, in January 2013 the first National Housing Trust model properties were advertised. The council received around 1,800 responses to the advert with the overwhelming majority of applications being eligible for the properties. This highlights the extremely high level of demand for affordable housing in the Edinburgh area.

Golden share developments

Edinburgh has had success with 'golden share' developments – where the price is capped to 80% of market value. This is an unsubsidised form of low cost home ownership, secured in perpetuity. The developer pays for the marketing and construction of these properties – meaning the council's involvement is kept to a minimum. The council essentially plays the role of 'referee' in terms of price and eligibility of applicants. Many of the people who apply for these type of homes are key tradespeople in the Edinburgh area, e.g. hairdressers, joiners, plumbers etc. This type of housing also plays another role in meeting need: currently there is no support for households looking to buy their second home, and the 80% cap proves popular for expanding households who need a larger home. They are also popular with developers, who often kick-start their developments with them as they are 100% guaranteed to sell them. This is due to the high level of demand in the Edinburgh area. In terms of setting up a 'golden share' agreement the important part is the discharge clause in the section 75 agreement; making sure the home is affordable in perpetuity and that the ongoing administration costs are not a burden for the council.

National Housing Trust

While these properties do fill an identified need, it is not clear at this point in time who the units will be sold to once the tenure comes to an end. The sitting tenant gets an option to buy the property. If this isn't an option then the council or RSL can step in and sell the

property. Other potential buyers include pension funds, where the properties are grouped together, or on the open market as individual units.

Barriers to delivery

There was a period of time during the downturn where it was fairly easy to secure land for affordable housing. As the market picks up there's been a return to seeing a high number of bidders for plots of land – around 10 bidders per plot are expected in today's market. This is the type of market in which housing associations can find it difficult to secure sites. With regard to Scottish Government policy, the use of a 25% 'ceiling' could have a negative impact on the potential affordable quota that could be secured through the policy. Developers may use this as a tool to negotiate down their affordable housing contribution, and with the need for affordable housing being above 25% in most areas of Edinburgh this could be unhelpful in terms of securing affordable housing in development. This is something the council fed back to the Scottish Government in their consultation response on the new draft SPP. The exemption of certain types of developments from the policy could also have a negative impact, particularly in relation to housing for older people. Several older people's developments have been taken forward with 'golden share' properties. These have proven extremely popular – one development received around 350 responses just from leafleting alone. Exempting this type of development from affordable housing contributions would limit the affordable housing contribution the council could secure.

Good practice

Taking an active role in pursuing innovative tenures – e.g. 'golden share' – has allowed the council to broaden its offer of affordable housing. This has required a close working relationship between the council's legal team and the planning department, particularly given the risks involved. In terms of units delivered through the policy, the council is currently sitting at record levels of units delivered. By January 2014 there were around 1,960 completions since the beginning of the affordable housing policy.

East Renfrewshire Council

East Renfrewshire, on Glasgow's southern edge, is the 9th smallest local authority in Scotland in population terms. Comparable in population size to Moray, Midlothian, Stirling, Inverclyde and East and West Dunbartonshire, it contains some of the highest value housing in the West of Scotland, as well as areas of relative deprivation. Parts of East Renfrewshire exhibit particular problems of affordability because house prices are so high. While East Renfrewshire is effectively part of the wider Glasgow housing market area, the Reporter for the most recent Local Plan felt that unless there was a specific

proposal to make provision in the wider Glasgow area for East Renfrewshire's needs, the need for affordable housing should be met locally. The experience of the Council in delivering affordable housing through the planning system is of interest, because it demonstrates what can be achieved in a high value area. East Renfrewshire Council has a full time designated Senior Project Officer for affordable housing, an approach which is supportive of the implementation of policies of this type.

Affordable Housing Delivery Mechanisms

Delivery of Affordable Housing has been more difficult to achieve in recent years due to the economic climate. This has resulted in the Council being more flexible in its approach and looking at all types of delivery. Delivery of affordable housing can take a variety of different forms, and can be achieved both through and outwith the planning system. Most affordable housing units are secured through the granting of planning permission, but units can also be secured through a range of other delivery mechanisms, all of which ERC are exploring and implementing wherever possible.

These alternatives include units added to supply through the Rent off the Shelf scheme, the Scottish Government's Open Market Shared Equity scheme, the New Supply Shared Equity with Developers Trial, the Mortgage to Rent scheme and through RSLs obtaining extra units directly from developers (units planned to be market units but, due to the economic climate, purchased by an RSL for social rent when additional funding became available from government).

East Renfrewshire Council: Affordable Housing Delivery Figures			
Year	Quarters	Additional AH units brought into the Supply	Breakdown of units
2006/07		0	
2007/08		0	
2008/09		20	8 Social Rented Units 12 Homeless/Supported accommodation
2009/10		30	30 Homestake Shared Equity Units
2010/11		121	118 Social Rented units 3 Developers Shared Equity
2011/12	Q1 to Q3	134	102 Social Rented Units 32 New Supply Shared Equity Units
2012/13		16	16 Social Rented Units
Total		321	

Other Affordable Housing Units Added to the Affordable Housing Supply (2007-2013) [Not new build]		
Year	Breakdown of units	Additional AH units
2007/08	3 Rent off the Shelf (ROTS)	3
2008/09	5 ROTS units 3 Mortgage to Rent (MTR) Units	8
2009/10	14 Open Market Shared Equity Units (OMSE) 5 MTR units	19
2010/11	1 MTR units 3 ROTS properties 5 OMSE 13 NSSE with Developers 12 Social rent Units from additional funding	34
2011/12	3 MTR units 6 ROTS 2 OMSE 3 Shared Ownership to Rent (RSL Buy Back) 2 Open Market Purchases by RSL (for Rent)	16
2012/13	7 ROTS 3 OMSE 4 MTR 1 Open Market Purchases by RSL (for Rent)	15
TOTAL		95

When **all** delivery mechanisms are considered, some 416 units have been delivered from 2006 to date. The Council's Single Outcome Agreement for 2009-2012 included a target for affordable housing of 346 units to by the end of 2011/12, which was met. (This was set in relation to a baseline of 3 units provided by 2007/8.) The new Single Outcome Agreement 2013-2016 commits to 30 units of affordable housing (average) per annum, based on the target of 150 to be achieved over the 5-year lifespan of East Renfrewshire's Local Housing Strategy 2012-2017.

The Council's policy

Due to the significant need for affordable housing in the area, the Council first introduced an affordable housing policy in January 2006 in the form of Supplementary Planning Guidance to the 2003 Local Plan, following the issue of PAN 74 (the predecessor to PAN 2/2010). The experience of the Council is that it takes a while for policies of this type to feed through into completed units, but that is what they are now seeing.

The Council's Policy has been updated since its introduction, and now forms part of the adopted East Renfrewshire Local Plan as Policy H3 'Affordable Housing', with further detail being provided by Supplementary Planning Guidance (March 2012).

The adopted policy requires a minimum 25% quota on all sites where planning permission is sought for residential developments of 4 or more dwellings. The low size threshold was challenged by housing developers at the previous Local Plan Enquiry as being lower than what was suggested in the original PAN 74, but the reporter supported the threshold, recognising that local authorities could take local circumstances into consideration.

The Council has succeeded over the years in applying the policy to small sites. However, it takes a flexible approach, considering a wide range of options for delivery, including commuted sums, while still retaining a preference for the provision of land or units on site. The adopted policy and SPG set out the types of affordable housing which will be considered, being:

- Social rented housing
- Subsidised for sale models
 - subsidised low cost sale
 - shared ownership
 - shared equity
- Unsubsidised for sale models
 - entry level housing for sale
 - shared equity
- Mid-market or intermediate Rented

The current policy suggests that the Council's preference is for the tenures in the order they are listed above. However, in the currently proposed SPG and Local Development Plan, the Council is moving away from this approach. This is to allow flexibility to respond to the economic climate, to available funding and to provide a mix of homes catering for a range of needs.

Affordable Housing is a key part of the current Proposed Local Development Plan (Dec 2012) and a new policy on affordable housing (Policy SG5), as well as new proposed supplementary guidance, has been published and consulted upon as part of the proposed plan process. The proposed policy and guidance aims to increase flexibility of approach with discretion given to Council staff to determine and secure the more appropriate form of contribution for each particular case taking all matters, including development viability, into account whilst ensuring that solutions agreed will meet housing needs and be affordable to those on modest incomes.

As well as the quota policy, the Council has, in line with government guidance, also allocated sites solely for affordable housing, in both the 2003 and 2011 local plans, some of which have now been delivered – for example in Barrhead.

The role of intermediate tenure

At a designated affordable housing site at Greenlaw, Newton Mearns, 103 affordable units were delivered over the course of 2011-2012– a mix of subsidised new supply shared equity and housing for social rent. These were developed and allocated for rent /sold by Arklet Housing Association. A further 8 homes were delivered for shared equity purchase in 2013 at Waterfoot. These were delivered as a pilot project without subsidy in partnership with Cala Homes.

While social rent has been the biggest single tenure delivered across East Renfrewshire, there has also been expressed demand for intermediate tenure options, and in particular, for shared equity on the limited number of sites these have been available. Further research however is required locally to understand the level of potential need and demand that could be met by these types of products.

East Renfrewshire Council do not currently hold a waiting list for LCHO or intermediate housing products as such, though applicants to the housing register are asked to indicate whether they would consider a range of other housing options such as shared equity, private rented and other low cost housing for sale. However, through current affordable housing developments such as Greenlaw, and Waterfoot, the Council has gathered detailed information on the interest in shared equity/ low cost home ownership and the profile and requirements of applicants. This will be used to inform future planning for affordable housing developments, alongside the outcomes of the Housing Need and Demand Assessment, as well as to market forthcoming schemes to interested parties.

In Barrhead, a project was delivered in 2010 which provided 50% affordable housing, in the form of shared equity (a design and build project by Bett Homes for Cube Housing Association). This site subsequently delivered additional affordable housing through the

government's New Supply Shared Equity with Developers Trial. These units were marketed by Link Housing Association, but resulting sales were slow, because of the house type involved (flatted 4 in a block rather than the semi-detached house type of the other shared equity units on site).

A pilot project was trialled at Patterton Court, Newton Mearns in 2011/12 to sell 3 flats at 60% of market value (with a reduced sale price of £114,000) without subsidy, with the Council retaining a 40% equity stake in the homes. However, these units were not sold and evaluation of the scheme indicated that the price of these homes, even with discount, was still in excess of what local first time buyers could afford. A commuted sum was received by the Council in lieu of these units. This experience has been used to shape discussions on other proposed projects coming forward.

Since then, the pilot initiative has been undertaken at Waterfoot, providing a similar type of unit for shared equity sale. The 8 units here with selling prices of £84-90,000 were sold very quickly – all 8 were reserved within 7 weeks of the scheme launching - with the locale and selling price proving popular and within the reach of local first time buyers.

Funding issues

The new funding regime has caused problems for some of the Housing Associations active in the area, particularly the lowered £40,000 subsidy level. These subsidy levels have recently been increased, though we have yet to see the impact of these increases. A number of Housing Associations opted not to bid for the Innovation and Investment Fund in 2011 because of their capital position, and it has become apparent – in common with the rest of the country – that the bigger national and regional RSLs are in the best position to take projects forward. National housing associations such as Link and Hanover were successful with their bids for Innovation and Investment Funding in 2011/12, for affordable housing to be delivered on 3 different development sites in the area. (Each of these projects was secured through the application of the affordable housing policy to proposed residential developments.)

In order to deliver significant affordable housing numbers, per unit subsidy levels of affordable housing investment grant and the availability and cost of land are crucial. Locally there is a heavy reliance on land being brought forward by developers and a lack of control on site starts, which also impacts on delivery.

Serviced land transferred at a value set by the DV, in line with PAN 2/2010, is an option which has been applied by the Council.

Securing serviced land which could be developed by an RSL at a later date (when funding becomes available) could provide a set of 'oven ready' sites, on which lower grant housing would potentially be more feasible. 'Oven ready' land of this type would also make it easier to plan for the SHIP (Strategic Housing Investment Plan), however increased funding levels remain critical for RSLs to confidently commit to delivering units on site. Although not officially government policy, a consideration that remains is the March 2011 letter from the chief planner which suggested that it is counter-productive to secure land for proposals requiring high levels of subsidy unless the authority is confident that a source for this subsidy can be identified.

Within East Renfrewshire design and build projects have been the most common delivery type of those affordable units delivered and planned to date. This approach allows affordable units to be successfully integrated into the overall developments so that as far as possible they are indistinguishable in terms of style layout materials design and architectural detail, in keeping with the aims of both Scottish Planning Policy and PAN 2/2010. However this approach can mean RSLs having to work with private developer's products which can have an impact upon overall project costs.

Commutated Payments & Council Tax Discount on Second Homes

East Renfrewshire's commuted sums are calculated by the District Valuer on a case by case basis. This allows the sum to be calculated on the basis of the individual proposal, taking into account the site's location and any extraordinary development costs involved in the particular development.

The Council also collects monies for affordable housing via reduced Council Tax discount on second homes. This provides only a small pot of money per annum to be used towards affordable housing projects locally (circa £65,000 per annum and reducing). Commuted sums and Council tax discount monies are used to help meet an identified need in the same housing market area. The Council's affordable housing fund currently amounts to over £800,000.

Innovation

The Council has been exploring the delivery of discounted affordable housing for sale without the need for public subsidy. This was piloted on Stewart Milne's Patterton Court development in Newton Mearns, but was unsuccessful. Here the Council calculated an appropriate percentage discount on open market value, based on what an equivalent commuted sum would be from the development, to in effect create a golden share shared equity scheme. In this case, the percentage discount calculated (40%) allowed for the open market

sale price of £180-£190k unit to be reduced to £114k for a two bedroom flat with en suite facilities. (A service charge for common repairs and landscape maintenance of around £55 a month would also be payable).

The buyers of the affordable units were able to buy at 60% of open market value, and 40% of the equity will be retained by East Renfrewshire Council (in the form of a standard security), thus creating housing to remain affordable in perpetuity for eligible purchasers⁴⁵ - there would be no opportunity to staircase to full ownership.

This was an interesting and innovative project. Joint marketing was launched late in 2011 but was unsuccessful. The learning from this was that the selling prices were still too high for local first time buyers. There was also some hesitancy from lenders because this was not an established shared equity product.

This learning was used to shape a similar pilot recently completed in Waterfoot in 2013 with CALA Homes. 8 x 2 bedroom cottage flats were sold on the same basis to eligible purchasers, mainly first time buyers – but the selling prices negotiated with CALA were kept below £100,000 at £84-90,000 for ground and first floor flats respectively.

There was significant interest in this development because of the locale and prices. The project has just recently completed, but initial evaluation suggests that lenders have been making more mortgages available to this group of purchasers and on more favourable terms to allow them to take up shared equity products and low deposit requirements. This understanding will be used in negotiation of future initiatives.

⁴⁵ Eligible purchasers must be on a modest income, as assessed by the local authority and either be a first time buyer, or a person who is a home owner but needs a new home following a significant change in household circumstances or a person with a disability who owns a home which is not suitable for them.

Perth and Kinross Council

Units delivered

To date 297 units have been delivered through the policy – out of a total of 1,096 affordable units delivered in the area. This means the policy has delivered around 27% of affordable units since it first started delivering units. In total around 80% of the total affordable units delivered through the policy were secured through on-site provision.

The council has a higher benchmark of 50% in Perth city centre, however this has been hard to deliver on in practice and will likely change in early 2014. In terms of demand in the Perth and Kinross area, this can be as high as 50 to 60%, however, experience has shown that it hasn't been viable to go above a 25% requirement. Issues in the Perth and Kinross area include: less uplift from agricultural value than in more pressured areas and a slow market generally.

Barriers to delivery

In some cases it has been difficult to secure developers' contributions – there is a perception that market housing and affordable housing do not mix well on the same site. This issue has led to the granting of a commuted sum instead of onsite provision, particularly in relation to housing for particularly groups – e.g. older people. Commuted sums have also been reduced on the grounds of viability issues.

Land valuations have also presented their own issues in the Perth and Kinross area. When the landowner considers the uplift from agricultural value, the value of the market level share of the development may not be enough to make a project viable where the land for affordable housing has a nil value. This can often result in a negative value in real terms when the costs of infrastructure etc. are factored in – on some plots infrastructure costs at around £25k per unit and build costs for affordable houses can be up to £120k. This can make developments of this type are not viable. More generally, landowners in Perth seems to want more than 75% of a development to be built at market levels.

The main factor holding back developments at present is the slow market – there isn't currently the money to take forward developments on many sites. These sites are usually town centre sites which are only suitable for flats. Difficulties faced by house builders including issues over securing finance for these types of development.

There are also issues over the nature of the funding of affordable housing. The Scottish Government recently moved away from programming – making it more

difficult to make long term plans about house building. The increase in funding in recent years has allowed developers to speed up their building, however, general uncertainty over funding levels has led to a lack of control over the timing of developments, particularly amongst housing associations given their reliance on subsidy. At the moment only years one and two are secure in terms of funding; a long-term programme of funding would make it easier for housing association to forward plan.

Wider benefits of the policy

Commuted sums themselves have been very useful in terms of delivering affordable units on other sites, particularly given the reduced subsidy levels in recent years. These have often been essential to deliver housing – particularly to boost the proportion of homes for social rent.

The policy has also been of benefit to some developers. As the market slowed down developers were happy to agree to an affordable housing contribution, particularly those where the affordable units – along with infrastructure – went in first. This allowed developers to keep their construction staff employed during the slump in the market.

Tenure mix

During the application process the council will also set out their desired tenure-mix. The council's preference is for socially rented homes, particularly on larger sites. Mid-market rent has been added to list of tenures that the council is willing to consider, although this type of tenure is not particularly popular in the Perth and Kinross area. In addition council members have expressed concern over National Housing Trust type tenures. The short-term nature of the tenure means that they are only guaranteed to be affordable for a finite period of time. The council have also tried private sector low cost housing for sale. However, this was not very successful as demand for this particular type of tenure was low in the location it was tried – mainly due to problems over mortgage finance. One way of gauging demand for intermediate tenures such as these would be to use the 'housing options' approach to create waiting lists for different tenure types.

Good practice

Having a joint post between the planning and housing departments has been beneficial; the two departments also worked jointly on the council's housing needs and demands assessment.

In terms of funding, combining commuted sums and council tax charges on empty properties has been beneficial, particularly considering reduced grant levels and the five year limit on section 75 agreements. The credit system has also helped developers contribute as much as they possibly can from a wide range of sites. It has allowed developers to build more than 25% affordable housing on sites which they considered suitable, and, with the agreement of the Council, to treat that additional amount of affordable housing as meeting requirements on certain other sites in future.

There's also a need to be realistic about what developers can deliver and accept that private developers need to make a profit. Being flexible on these issues can ensure that as many developers as possible deliver an element of affordable housing.

Aberdeenshire Council

On the ground delivery

The affordable housing policy has been in place for around ten years now. In the past three years the policy has delivered the following:

	Affordable Housing Completions	Units delivered through s.75 agreements	% of affordable units delivered through the policy
2010/11	252	182	72%
2011/12	112	98	88%
2012/13	180	69	38%

The policy clearly demonstrates its use, delivering the majority of completions in the Aberdeenshire area in both 2010/11 and 2011/12. During 2012/13 the majority of completions were as a result of the Council's New Build Council Housing programme where a significant number of units were developed on 'landbanked' sites outwith the Affordable Housing Policy. This reduction is also a reflection of the constrained economic and financial climate upon the RSLs capacity to continue to deliver both in terms of reduced grant funding and ability to access affordable private finance. However, the planning department suggested that in terms of actual developments the level of delivery sits at around 10% to 20% of units – below the minimum requirement stated in the policy.

Grant levels

The initial reduction to grant levels has had an impact upon delivery. The subsequent increase in grant levels has been welcomed across all partners and this will assist in the

continued delivery of affordable housing. However there are still challenges ahead. Within the current Strategic Local Programme 2012 – 2015, the council are the predominant developer, developing 169 units of the 373 programmed units and this is reflected in the affordable housing completions above, whereby the Council have developed affordable housing on 'landbanked sites'. The council are followed closely by a national RSL who is developing 160 units. The majority of developing RSLs in the council's area are 'local' RSLs and they still seem to be experiencing some challenges in relation to their financial portfolios and consequently their capacity to develop. Whilst the SLP is a three year programme, spend and completions are still very much focused on annual targets. Due to the very nature of development this can prove to be very difficult to manage. Likewise whilst increases in the Resource Planning Assumptions have been welcomed, the requirement for completion of any units by March 2015 is very challenging. Potential developments can continue to be worked up so that they are ready to be developed as and when funding becomes available. However this will involve the organisation having the financial capacity to do so as well as the possibility that funding may not be available for some time to develop the site.

If grant funding is not available at the time that a development comes forward then this may mean that the preferred tenure is not achieved when it comes to delivery, or a smaller percentage of units is delivered.

The 25% 'benchmark'

At the examination in public of the strategic development plan, developers argued for a 25% ceiling, not a target. This argument was accepted by the Reporters, who recommended to Scottish ministers that in future Local Development Plans, 25% should be the maximum requirement. A decision by ministers is awaited. This is important given that in some areas of Aberdeenshire the affordable housing requirement is currently well above 25% - for example in the Westhill area of Aberdeenshire.

It's important that developers take into account what the affordable housing requirement will be – this should be considered as early as possible in the development process, i.e. when developers are considering a particular site for development. At this point it is very helpful to speak to the council's planning gain team to discuss what the likely requirement will be on that site.

Aberdeenshire's current policy indicates an affordable housing contribution that varies by settlement to reflect the varying housing need across Aberdeenshire. These requirements are documented in Schedule 4 of the Local Development Plan.

Alternatives to preferred tenure

Aberdeenshire will always set out to achieve an affordable housing contribution of socially rented homes on the site of developments. This may well take the form of social rented housing or mid-market rent housing. However, if this is shown to not be possible then the council is willing to accept some form of low cost home ownership, and if this is not possible, then a commuted sum will be considered.

The council has found the 'golden share' to be a particularly effective form of low cost home ownership (where the value of the home is pegged at around 70 or 80% of the market value in perpetuity). With this product the owner retains 100% of the title with the Council retaining a security in the property which is ranked second after the mortgage provider. It is beneficial from a mortgage lender's point of view as, should the owner default and the mortgage provider need to call-up the mortgage agreement, they can draw on up to 100% of the market value of the property on sale. However, this product is not a 'Scottish Government brand' and is still not well-known among mortgage lenders – only one mortgage lender is currently offering a suitable mortgage product – further work is required to promote this scheme as a form of low cost home ownership. One way of doing this could be to make specific mention of it in a Scottish Government planning advice note.

There is less scope for intermediate tenure in the rural housing market area of Aberdeenshire compared to the Aberdeen Housing Market area. However, the council are looking to progress an IT system which can measure need for these tenure types and links to the 'Apply for Homes' scheme, which allows households to apply for council and housing association homes across the Aberdeenshire and Moray areas.⁴⁶ This database would contain details of households who have an interest in and are suited to various forms of intermediate tenure, which could also be used for the marketing of intermediate tenure projects. There are approximately 8,000 households on waiting lists in the Aberdeenshire area, and only in region of 1,000 relets a year.⁴⁷

Where on site delivery is not possible the council may accept a commuted sum, however this happens rarely in practice, other than for single houses. Developers may prefer the option of a commuted sum – particularly where the level is quite low. Likewise this can also apply to tenure; if a range of tenures is on the table, then developers will select options on the low cost home ownership end of the tenure scale – rather than provide socially rented homes.

⁴⁶ See <https://www.apply4homes.org.uk/>

⁴⁷ The number of households on the council waiting list was 6,382 in March 2013, but only 850 new lets were available in 2012-2013. See Scottish Government, 'Housing Statistics for Scotland 2013: Key trends summary', August 2013.

Aberdeenshire council's planning gain and development delivery teams

Aberdeenshire's development delivery team is instrumental in getting developments off the ground and seen through to delivery, following the Action Plan in the Development Plan. Its planning gain team delivers a planning gain agency service for Aberdeen City, Aberdeenshire, Moray, and the Cairngorms National Park. The team is able to take an objective view of everyone's requirements and drive developments that way – it is independent of the development delivery department. The team are able to communicate with developers and different parts of the council to ensure that developments are not being held up unnecessarily. It's also important to plan sites well in advance. That way developers know what is expected of them and any potential pitfalls can be highlighted as early as possible, and smoothed over.

Shelter Scotland helps over half a million people a year struggling with bad housing or homelessness – and we campaign to prevent it in the first place.

We're here so no one has to fight bad housing or homelessness on their own.

Until there's a home for everyone

Registered charity in England and Wales (263710) and in Scotland (SC002327) RH6661

Shelter Scotland
Scotiabank House
6 South Charlotte Street
Edinburgh EH2 4AW

shelterscotland.org

Shelter
Scotland