



## **ADVICE NOTE FOR MEMBER COMPANIES**

### **Development of Affordable Housing in Scotland**

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Homes for Scotland accepts that it is a lawful and legitimate function of the land use planning system to allocate land for affordable housing. In the absence of a specific land use category such allocation can be identified by reference to allocations within an identified land release for residential development.

The essential pre-conditions for the effective delivery of affordable housing are:

- Up-to-date Local Plans
- Approved Local Housing Strategies
- Housing Needs Assessments dealing with all tenures and market segments
- An effective housing land supply to meet housing requirements in full across all market segments

Where supported by a robust and tested housing needs assessment, a planning authority can seek to have a proportion of a site made available for affordable housing. If that needs assessment requires 15% of houses to be affordable, the planning authority can seek to have the land to accommodate that 15% “reserved” for that purpose. It should be noted that that does not equate to 15% of the site.

The development of that affordable housing should not be determined by placing a condition on the timescale for the development of the mainstream housing. The need for affordable housing is a social fact and is not a detriment created by a development application. Consequently, no mitigation by way of subsidy can be sought by the planning authority from the housing developer and, as no nexus exists between the need for affordable housing and an application for mainstream housing, an otherwise acceptable development proposal cannot be rejected because it does not contain an element of affordable housing.

However, a failure to link the development of the affordable housing to the development of the mainstream housing is not in the interests of the planning/housing authorities, nor is it in the interests of the developer who would be required to build out a development but unable to advise prospective buyers of any confirmed details of the affordable housing development.

To overcome these concerns it is in the interests of the planning authority and the developer to enter into a separate agreement relating to the development of the land allocated for affordable housing and to use that agreement to manage the process of procuring the affordable houses. Several key points should be borne in mind. These are:

- Where a Registered Social Landlord (RSL) can be identified and where that RSL has an appropriate level of funding to meet site acquisition, construction and servicing costs or can have that funding confirmed within the lifetime of the mainstream build, then it should be possible to proceed on the basis of an integrated development.
- Where no RSL exists or where funding is unavailable within the lifetime of the mainstream build, the planning authority should be obliged to allow the developer to build out affordable housing/starter homes for sale and to assist that process the planning authority should allow the developer to use density and specifications to drive down unit production costs. Houses provided under this heading must be allowed to count against the planning authority's percentage requirements.

### Threshold and Percentages

It is clear that the above approach is facilitated by large-scale planned releases and inhibited by a reliance on small infill or windfall sites.

Two further issues require more consideration. These relate to thresholds and percentages.

In respect of thresholds, it is clear that procuring affordable housing on sites below 50 units is difficult when RSLs are rarely interested in blocks of units of less than ten. On these sites affordable units for sale should be considered unless the commercial viability of a scheme would be threatened.

Turning to percentages, there is a body of evidence from England and Wales which would suggest a maximum of 15% can be accommodated within a large mainstream build without a detrimental impact on project viability if known about at the point at which land release options are being negotiated. Percentages higher than 15% not only begin to impact on project viability but also affect a vendor's willingness to sell, particularly where a development has to fund the provision of other community facilities and infrastructure.

In pressured market areas there is evidence to suggest that vendors will only be prepared to release a proportion of the site at affordable housing values if the mainstream development on the balance of the site releases open market values.

A failure to realise the "hoped for" value for the mainstream development is likely to seek to result in the entire project being placed at risk.

## Valuation

A key element of the feasibility of any development and any agreement with a local authority and RSL, will be the valuation of the land made available for affordable housing within a mainstream development. This valuation will represent the price payable to the developer for the site either by outright transfer to the RSL or as part of a negotiated Design and Build contract for the provision of the units. The valuation may also form part of negotiations with the Local Authority and Communities Scotland for affordable housing for subsidised sale, whether through a grant programme or some other route.

Independent professional advisers should identify the valuation for the affordable portion of the site, or the equivalent in serviced plots by either relating it to its end use for affordable housing or by agreement between the developer and the RSL. It is accepted that this value may be lower than that for the mainstream housing for sale, but it should take into account a share of the infrastructure and abnormal cost as well as any planning gain contributions calculated as a proportion of the affordable units over the total development units. It is essential that mechanisms and policy guidance issued by any Local Authority in relation to valuing the affordable housing element of any site should be the subject of agreement with the development industry in principle. In order to ensure that future land negotiations are based on a shared understanding of the valuation framework it is essential that any advice or guidance is equitable, transparent and consistent.

Planning authorities do not have powers to require a developer to construct new houses to be handed over free of charge to a local authority or a RSL although, by agreement, a developer may in some circumstances elect to provide completed units to a value equivalent to the cost of providing the serviced land required by a development plan policy.

Edinburgh  
February 2005