

# North Lanarkshire Local Development Plan

## Policy CI 1 Affordable Housing

### Supplementary Planning Guidance

January 2023

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## Introduction

This Supplementary Planning Guidance (SPG) advises developers and landowners how the identified shortfall in the provision of affordable housing in the Cumbernauld Housing Sub-Market Area (HSMA) will be addressed when proposals are submitted to the Council for housing developments of five or more units in the Cumbernauld HSMA. It is supplementary to Policy CI 1 Affordable Housing contained within the North Lanarkshire Local Development Plan (NLLDP) and the Affordable Housing Policy Background Report. This process is intended to secure best value for the Council and ensure the right type of affordable housing is provided in the right locations. This policy can also be applied on a case-by-case basis where an identified need has been demonstrated.

When developers carry out initial financial appraisals, they should ensure that they take full account of community expectations and development viability. This will assist in determining how the affordable housing requirements can be implemented.

## NPF4/National Planning Policy

Since the Adoption of North Lanarkshire Local Development Plan, National Planning Framework 4 has come into effect. National Planning Policy 16 e) states *“Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where: i. a higher contribution is justified by evidence of need, or ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes. The contribution is to be provided in accordance with local policy or guidance.”* In the absence of Scottish Government Guidance, the Council believes that its NLLDP Policy CI 1 Category Affordable Housing and this Supplementary Planning Guidance accords with National Planning Policy 16 e) and e) ii in setting out how its fully justified and tested Affordable Housing Policy will be applied to the consideration of planning applications for housing in North Lanarkshire.

## Legislative Framework

The SPG takes account of:

- The Town and Country Planning (Scotland) Act 1997
- The Planning etc (Scotland) Act 2006

- The Housing (Scotland) Act 2001
- Planning Advice Note 2/2010 (PAN 2/2010)
- North Lanarkshire Local Development Plan (Adopted July 2022)
- National Planning Framework 4 (NPF4) (Adopted February 2023)
- Housing to 2040
- The Planning (Scotland) Act 2019

NPF4 Policy 16 requires affordable housing provision where there is an identified need. The evidence base for an identified need is contained in the Affordable Housing Background Report and was confirmed by the Local Plan Examination prior to Adoption of NLLDP in 2022. Affordability is a key theme expressed in the Local Housing Strategy 2021-26. PAN2/2010 Affordable Housing and Housing Land Audits advises on how the planning system can facilitate the delivery of affordable housing. NLLDP Policy CI 1 is consistent with the guidance in SPP and PAN 2/2010.

## Council Recognition of Affordable Housing

The Council recognises that affordable housing is typically housing available at non-market prices that meets the needs of those unable to afford to buy or rent on the open market.

The Council recognises the following types of affordable housing provision, which are ranked in priority order, reflecting housing need within North Lanarkshire:

- Social rented housing (highest priority)
- Mid-market rented or intermediate rented housing
- Shared equity
- Shared ownership
- Discounted low cost for sale/discounted market housing
- Low-cost housing for sale through subsidy
- Other forms of Discounted low-cost housing for sale

These tenures are aligned with the affordable housing tenures set out in PAN 2/2010.

## Delivering Affordable Housing

The Council recognises that a range of factors affect the delivery of affordable housing on individual sites, including:

- Housing need
- Site suitability
- Costs and availability of public subsidy

Each proposal will be considered on a site-by-site basis, considering costs of development and any infrastructure works necessary to facilitate development and

render the site financially viable, as well as any pressure on existing social housing and proposed social housing newbuild within that particular locality.

Identifying the tenure-mix, type and scale of affordable housing will be determined on a site by- site basis to meet identified need and will be assessed with reference to the priorities identified in the following:

- Local Housing Strategy
- Strategic Housing Investment Plan
- Housing Need & Demand Assessment
- Housing waiting lists and pressure analysis
- Regeneration master plans or other strategic locality planning
- Contribution to the Council's commitment to create mixed, sustainable communities

Factors determining site-suitability for affordable housing are outlined below:

- Affordable housing is generally, but not exclusively, required by communities more reliant on public transport, through economic circumstances, health, age or mobility. It is important these factors don't disadvantage communities from accessing education, employment, community or recreation facilities, open space and health services. Affordable housing should be located close to amenities in accessible locations where communities can walk, cycle or use public transport to access services.
- Topography of the site should be considered to ensure accessibility and mobility for residents, but also the development costs and financial viability of subsidised affordable housing.
- Consideration should be given to whether or not the desired type of affordable housing required to meet local needs can be integrated with other house types being proposed within the development. In the interests of delivering mixed, sustainable communities affordable housing policy homes are expected to be indistinguishable in appearance to the market homes provided.
- Subsidised affordable housing must comply with all relevant legislation and Scottish Government guidance in terms of design criteria such as Housing for Varying Needs.
- Scale of development and proximity to other managed units along with integration must be balanced with the need for efficiency of development and housing management.

By taking these factors into consideration at an early stage, the preferred form of affordable housing contribution can be agreed, and developers or landowners made aware of this prior to agreeing the valuation methodology jointly with the Council. This allows developers to consider affordable housing requirements as part of their site appraisal and land acquisition at an early stage.

## Delivery Options

### Preference One: On-site Provision

The first preference for affordable housing contributions is provision of on-site, subsidised affordable housing policy homes or serviced and accessible land being transferred or sold to an appropriate social housing provider. This should generally be a Registered Social Landlord (RSL) or North Lanarkshire Council for development at an end use value for affordable housing.

### Preference Two: Off-site Provision

Provision of off-site affordable homes on another site within the developer's ownership or suitable serviced and accessible land being transferred to the Council or appropriate RSL. It is for the developer to justify the omission of on-site provision and to guarantee the delivery of off-site provision, within a timescale agreed with the Council. Again, any land transferred should take account of the end use of the land for affordable housing.

### Preference Three: Commuted Sum

Commuted sum as payment in lieu of equivalent of 20% affordable housing onsite provision. The commuted sum calculation will be determined by the District Valuer who should be appointed jointly by the Developer and the Council. Any assessment will take into account the end use value for affordable housing and the difference between it and the market value. This method will also consider site specific issues. Any commuted payments received will be spent on provision of affordable housing in the Cumbernauld Housing Sub-Market Area. Payment of a commuted sum may also be acceptable where the Council deem on or off-site provision is unsuitable or where insufficient funding is available to meet policy requirements. The Council shall utilise the commuted sum towards the provision of affordable housing within 10 years of payment.

The Council will seek to secure on-site provision of affordable housing at the rate of 20% for all new housing developments with an overall site capacity of 25 or more homes and for sites of 5 to 24 homes the Council will seek payment of a commuted sum, in lieu of site provision, of a value equivalent to the cost of providing the percentage of serviced land required by the Affordable Housing Policy. An AHP contribution will not be sought on sites of 1 to 4 homes.

Where a proposal is fewer than 5 sites but is clearly part of a phased development of a larger site which would be subject to an affordable housing requirement, a contribution is required at an appropriate stage in the development as a whole.

The Council will also consider the requirement for the provision of affordable housing elsewhere in North Lanarkshire on a case-by-case basis, where an identified need has been demonstrated. The Council will review evidence for affordable housing need on a regular basis and where evidence exists that demonstrates a need for affordable housing in areas out with the Cumbernauld HSMA the Council will consider application of the Affordable Housing Policy. HNDA3 will provide the principal evidence base augmented with additional local evidence to inform application of the policy elsewhere in North Lanarkshire.

Generally, where the Council or RSL can provide financial commitment that grant funding would be available to assist in delivery of the affordable housing units, then this would be the Council's preferred delivery mechanism. Land transferred should be serviced, free from constraint, be able to be developed within an agreed timescale and be valued for delivery of affordable housing. In addition, the project must be within the Scottish Government's subsidy target and development cost benchmarks.

Planning applications are likely to proceed more efficiently if proposals for the delivery of affordable housing are set out as part of the initial planning application and early discussions with the Council and/or nominated RSL would be recommended. The Council is subject to public sector procurement rules and these rules may apply to the procurement of any affordable housing element of a development.

PAN 2/2010 (Paragraph 21) states that where sites are unsuitable for affordable housing, developers may offer to provide the contribution on another site within their ownership, as long as the proposed alternative will help to meet an identified need in the same Housing Market Area.

In some instances, provision of the affordable housing on an alternative site within the Cumbernauld Housing Sub-Market Area may be acceptable to the Council.

Any alternative site will have to be deemed suitable by the Council (and in particular will either be allocated for housing within the Local Development Plan or have the benefit of planning permission for housing), be free from constraint, deliverable within agreed timescale and within Scottish Government subsidy target and development cost benchmark.

The affordable housing delivered off-site will require to be equivalent to the value of the contribution required on the original site and also must be able to accommodate the requirement for affordable housing arising from development in its own right. Commuted sums in lieu of on-site provision will be accepted where:

- The Council considers on or off-site provision unsuitable
- No funding commitment can be given by the Council or a nominated RSL
- Unsubsidised affordable housing is either financially unviable or will not meet identified need

The Council and developer will be required jointly to appoint the District Valuer, or other mutually agreed independent valuer, to value the affordable housing contribution required. The valuation at present will be based in accordance with guidance in Paragraph 22 of PAN 2/2010, which states that commuted sum payments should be 'of a value equivalent to the cost of providing the percentage of serviced land required by the policy'. Accordingly, the commuted sum required will be equivalent to the cost of providing 20% of the site's overall capacity in the form of serviced land for the provision of affordable housing by the Council or RSL.

Commuted sums will be used to support the delivery of subsidised affordable housing within the Cumbernauld Housing Sub-Market Area. All resources from this

source will be used in accordance with priorities identified within the Strategic Housing Investment Plan and Local Housing Strategy.

By considering the preferred form of affordable housing contribution developers and landowners can make informed decisions in relation to agreeing a joint valuation methodology with the Council. This allows developers to consider affordable housing requirements as part of their site appraisal and land acquisition at an early stage.

## Valuation Methodology

An agreed approach to valuations assists both developers and the Council with forward planning and delivery of the Affordable Housing Policy.

Early consideration of the site valuation is important to allow developers to assess the potential impact of Affordable Housing Policy requirements. The Council and the developer will require to jointly appoint the District Valuer, or other mutually agreed independent valuer, to carry out an appropriate valuation.

PAN 2/2010 sets out guidance on valuation of land for affordable housing. At the point of preparing this SPG, VIP 12 and GN Valuation of Land for Affordable Housing in Scotland have been issued and provide the most up to date guidance in relation to valuation of land for affordable housing.

Valuations will be calculated in terms of PAN2/2010 paragraph 25 for on-site provision and paragraph 26 for commuted sums. Paragraph 25 states that the commuted sum payments should be 'of a value equivalent to the cost of providing the percentage of serviced land required by the policy'.

Affordable housing land should be transferred at a value determined by the District Valuer, or other mutually agreed independent valuer suitably experienced in the type of property and the locality, appointed by mutual agreement between the parties.

Valuations will be instructed jointly by the developer and Council and be based on the affordable housing mix required to meet the local identified housing need.

Only in exceptional circumstances will the affordable housing requirement be reduced or waived, and developers will be expected to provide evidence of associated costs if they seek to negotiate a reduction to the affordable housing policy requirements. The evidence will be evaluated by the Council and, if necessary, by a suitably qualified independent third party.

## Funding Affordable Housing Delivery

The funding for delivering subsidised affordable housing will require the development to:

- Meet with Local Housing Strategy priorities



- Meet design and quality standards required by Scottish Government (including Housing for Varying Needs Standard and Secure By Design)
- Be able to deliver proposed housing within Scottish Government's regional development cost benchmarks
- Be part of an existing or agreed development programme

Where the affordable housing is to be delivered without subsidy:

- A developer may in some circumstances elect to provide completed units without subsidy rather than the serviced plots required by the development plan policy.

## Affordable Housing Developer Models

The Council will consider shared equity or 'intermediate' housing for rent as meeting identified affordable housing need in North Lanarkshire.

Where it can be demonstrated by developers that unsubsidised forms of affordable housing for sale that maintain affordability in perpetuity in some way or another can be delivered, then these will also be considered. Developers will be expected to put in place an appropriate priority purchase scheme to target affordable housing at identified priority groups.

Priority groups for affordable housing tenures in North Lanarkshire are those in housing need who cannot afford to buy or rent at market prices. Housing need refers to households lacking their own housing or living in housing which is inadequate or unsuitable for their needs, and who are unlikely to be able to meet their needs in the housing market without some assistance and who earn less than the average household income. The lower quartile weekly household income in North Lanarkshire is £330<sup>1</sup>.

## Planning Process

It is advisable to ensure that officers of the Council's Housing Service attend any pre-application discussions in advance of submitting planning applications. Following participation in discussions, it is hoped that developers will be able to submit an Affordable Housing Agreement Letter (produced by the Housing Service) along with their planning application, this document will demonstrate that the Council's Head of Planning and Regeneration Service is satisfied that the provisions of the Affordable Housing Policy have been met. This document will then form the basis of the Legal Agreement that will subsequently enable planning permission to be granted in full.

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<sup>1</sup> Based on the Scottish Government Local Level Household Incomes Estimates (2018). Estimates are gross household income received by all adult householders, including welfare benefits, tax credits and housing benefit and is unequivalised income which does not adjust for size of household where there may be multiple incomes.

An Affordable Housing Agreement Letter neither grants, nor implies subsequent granting of planning permission.

The Affordable Housing Agreement Letter will address matters such as:

- The mechanism and timescale for the delivery of the affordable housing or commuted sum agreed between the developer/landowner and the Council/RSL
- The method of establishing/setting the purchase price for the land
- An agreement to transfer specified areas of land or buildings to an RSL or the Council
- Detailed conditions relating to appropriate assessment of costs associated with abnormal ground conditions which will be subject to future site investigation and warranty
- Detailed conditions relating to provision of an alternative commuted sum payment if for any reason following more detailed site and development cost appraisal the specified affordable housing cannot be delivered
- Standard specification and definitions for the scale, type and tenure of affordable housing to be provided
- An agreement on how any dispute will be resolved regarding valuation and exceptional site costs

## Securing the Development

Where a requirement for affordable housing has been established and the value of same agreed, the affordable housing contribution will be secured by means of planning condition or a binding legal agreement between the Council and the developer or landowner seeking the planning consent as follows:

- Applications for ‘Planning Permission in Principle’ (where on-site provision is proposed) which are granted permission would be subject to a planning condition which requires the subsequent detailed application (Matters Subject to Condition - MSC) to comply with the Affordable Housing Agreement Letter. The MSC application would then be the basis of a legal agreement as outlined below.
- Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 and Planning (Scotland) Act 2019 would be used to ensure that on or off- site schemes are implemented or to allow for the provision of a commuted sum of money on a phased basis.
- Section 69 Local Government (Scotland) Act 1973 would be used where the developer has agreed to provide the Council with a commuted sum of money and where this money would be provided as and when planning permission is granted.

Legal agreements will require to be concluded prior to the issuing of planning consent. The legal agreement will seek to ensure that the terms of the Affordable Housing Agreement Letter are implemented within a defined timescale.

The Council considers that affordable housing should remain affordable as long as there is an identified need shown in the Local Housing Strategy. It is considered that this can be most effectively achieved through the delivery of social rented housing.

Where other mechanisms are used for delivery such as shared ownership, shared equity, discounted low-cost housing or private below rent market housing, developers will be required to ensure that future sales or rentals of the houses remain affordable as long as an affordable housing need remains.

The above is not exhaustive and negotiations on the way in which affordable housing is provided within a site and the appropriate terms and conditions in the legal agreement will vary depending on specific site circumstances.

## Review

The Supplementary Planning Guidance will be kept under review to ensure that it remains accurate. The Council will therefore keep under review:

- National legislative and policy developments
- Changes to financial delivery and procurement frameworks
- Changing local circumstances in relation to housing needs

Monitoring the Local Housing Strategy, Strategic Housing Investment Plan along with the Housing Land Audit will be key in measuring the effectiveness of the delivery of the Council's Affordable Housing Policy.