

Affordable Housing Policy: North Ayrshire Mainland

Supplementary Guidance for Developers

1. Introduction

- 1.1 The Council is the initial and principal point of contact for prospective developers.
- 1.2 The Council will work closely with developers, Registered Social Landlords (RSLs) and others to maximise the number and quality of affordable homes provided in mainland North Ayrshire.
- 1.3 There is a separate policy and guidance for the Isle of Arran.

2. Interpretation of the Policy

- 2.1 Following consultation with stakeholders the following policy has been devised. The Council will require all housing developments (including conversions)
- (i) of 16 units or more, or
 - (ii) with a site area of equal to or greater than 0.6 hectare with an overall market development capacity, as determined by the Council, of 16 units or more,

an affordable housing contribution at the following rates:-

Sub – Housing Market Area (SHMA)	Towns	Rate
Irvine/Kilwinning	Irvine and Kilwinning	15%
Three Towns	Ardrossan, Saltcoats, Stevenston	10%
North Coast	West Kilbride, Seamill, Fairlie, Largs, Skelmorlie	25%

- 2.2 The characteristics of the site and its setting will be taken into account when determining the overall market development capacity of a site in 2.1 above.
- 2.3 Where the Council determines the overall market development capacity of the site is less than 16 units, no affordable housing contribution will apply.
- 2.4 Where the Council determines the overall market development capacity of the site is 16 or more units an affordable housing contribution calculated in terms of 2.8 and 2.9 below will be due.

- 2.5 If the development of a site from which a contribution is due is phased, the affordable housing contribution will still apply. The affordable and non-affordable elements of the site should be completed within similar timescales unless exceptional circumstances can be demonstrated.
- 2.6 If it is proposed to convert existing buildings/dwellinghouses into 16 or more units then the Policy will apply. Please contact Trudi Fitzsimmons, Housing Services, for guidance on the affordable housing contribution.
- 2.7 Where it appears to the Council that a site has been divided or reduced to avoid the terms of the affordable housing policy then an affordable housing contribution will be due. Similarly, separate applications for adjacent sites may be treated as a single application.

How to calculate the affordable housing contribution

- 2.8 The developer will be required to arrange for market and affordable values of the land, to be determined by a mutually agreed chartered valuation surveyor. For the avoidance of doubt, the valuation report should be instructed by and obtained at the sole expense of the developer after agreement to proceed has been secured from the Council.
- 2.9 The Council will seek a developer contribution based on 10%, 15%, or 25% of the difference between the market and affordable valuations of the site depending on the SHMA as defined at paragraph 2.1.
- 2.10 For example, if the developer proposes to deliver 14 units on a site which the Council determines could accommodate 20 units, the contribution will be calculated on the basis of a site capacity of 20 units, and therefore the valuation will be carried out on the basis of a site capacity of 20 units.

3. Partnerships and Mechanisms for Delivery of Affordable Housing

- 3.1 Applications are likely to progress most smoothly where developers establish early the delivery mechanism for the affordable element. The preferred mechanism to deliver the affordable housing will vary from site to site. Prospective developers should therefore enter into early discussions with the Council to clarify affordable housing obligations and options in particular locations.
- 3.2 The Council's preference for an affordable housing tenure in mainland North Ayrshire is for social rented housing. The Council recognises the following categories of housing as being affordable in accordance with Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits, which states at Paragraph 5:

“Social rented

- *Housing provided at an affordable rent and usually managed locally by a RSL such as a Housing Association, Housing Co-operative, local*

authority or other housing body regulated by the Scottish Housing Regulator.

Subsidised low cost housing for sale

- **Subsidised low cost sale** - a subsidised dwelling sold at an affordable level. Discounted serviced plots for self build can contribute. A legal agreement can be used to ensure that subsequent buyers are also eligible buyers. In rural areas this may be achieved through a rural housing burden.
- **Shared ownership** - the owner purchases part of the dwelling and pays an occupancy payment to a RSL on the remainder.
- **Shared equity** - the owner pays for the majority share in the property with the RSL, local authority or Scottish Government holding the remaining share under a shared equity agreement. Unlike shared ownership, the owner pays no rent and owns the property outright.

Unsubsidised low cost housing for sale

- **Entry level housing for sale** - a dwelling without public subsidy sold at an affordable level. Conditions may be attached to the missives in order to maintain the house as an affordable unit to subsequent purchasers.
- **Shared equity** - the owner purchases part of the dwelling, with the remaining stake held by a developer.

Mid-market or intermediate rented

- *Private rented accommodation available at rents below market rent levels in the area and which may be provided either over the medium or long term.”*

- 3.3 The requirement for delivery of affordable housing will affect the economics of the site development. Developers should therefore take the requirement for affordable housing into account when negotiating land values with site owners. Planning applications are likely to proceed more smoothly if proposals for the affordable component and the mechanisms for its delivery are set out as part of the initial planning application. Provision of the affordable housing element shall be delivered in phase with the provision of the market housing.
- 3.4 New affordable housing must not be significantly different in external appearance from market housing on the same site. The Council will establish affordable housing needs in relation to house type and size and this will be communicated to developers at the earliest opportunity. The Council will convene meetings between developers/landowners and the appointed RSL to ensure that dialogue is commenced on this and other

matters. New build affordable housing should reflect the agreed mix and be fully integrated into surrounding housing development.

- 3.5 The Council will apply a sequential approach to delivery options, based firstly on integrated development within the development site; secondly, by the transfer of on-site serviced land, which is capable of and prepared for development, to an RSL; thirdly, by off-site provision of serviced land and fourthly, by the transfer of a commuted sum of money to the Council. The preference will always be for the first of these options and only if that is demonstrated or found to be impractical or unreasonable will the second or failing that, the third and then the fourth preferences be considered by the Council. These preferences are considered in more detail in 3.6.
- 3.6 The Council will consider the size and nature of proposed developments when identifying the preferred contribution option.

First Preference

- **Integrated development** where developers build units of affordable housing themselves in conjunction with, or in partnership with an RSL, as an integral part of the development. These units should be built to Housing for Varying Needs standard and should meet the RSL's specification. The units would then be transferred as fully fitted units to an RSL for onward management and maintenance. This approach has the advantage of achieving the most successful integration of different tenures, both socially and in terms of architectural appearance, and will normally be most cost efficient in procurement. The objective should be for it to be impossible to tell the tenure of a particular property from its external appearance.

The number of units sought will be in accordance with the overall market development capacity of the site (as determined by the Council), which is illustrated in Table 1.

Table 1

Overall Market Development Capacity (as determined by the Council) No. of Units	Affordable Housing Contribution Rate		
	10% No. of Units	15% No. of Units	25% No. of Units
16	1	2	4
17	1	2	4
18	1	2	4
19	1	2	4
20	2	3	5
21	2	3	5
22	2	3	5
23	2	3	5
24	2	3	6
25	2	3	6
26	2	3	6
27	2	4	6
28	2	4	7
29	2	4	7
30	3	4	7
31	3	4	7
and so on			

If this delivery mechanism is agreed not to be practical or reasonable then the Council will consider the Second Preference below.

Second Preference

- **Transfer of on-site land** to an RSL in order for them to carry out the development of the affordable units themselves. Site servicing, ground condition remediation, infrastructure works and associated costs of the land to be transferred should be agreed with the appointed RSL. Special care must be taken to ensure that the different parts of the overall development are successfully integrated and that the area, or areas, earmarked for the affordable element is

not subject to any disproportionate or unreasonable development constraints. The price of the land will require to be negotiated, but will generally be expected to be transferred at a value relating to its end use for affordable housing or by agreement between the developer and the RSL, at a lower value. The value shall be determined by a mutually agreed chartered valuation surveyor. For the avoidance of doubt, the valuation report should be instructed and obtained at the sole expense of the developer after agreement to proceed has been secured from the Council. The Council will require to be confident that the affordable element can be delivered with the resources which are either available, or are anticipated to become available within the foreseeable future.

The contribution required would be for the transfer of 10%, 15% or 25% of the serviced developable land depending on the SHMA concerned. If this delivery mechanism is agreed not to be practical or reasonable then the Council will consider the Third Preference below.

Third Preference

- **Off-site Provision.** Where the number of affordable housing units on any site would be few, the Council may agree to consolidate the requirement from a number of these sites on another site owned by the same developer. The acceptability of land transferred as off-site provision must be proven by the developer to the satisfaction of the Council to be capable of development for affordable housing. Site servicing, ground condition remediation, infrastructure works and associated costs of the land to be transferred should be agreed with the appointed RSL. Alternatively, the Council would consider accepting the provision of an equivalent number of off-site housing units.

If this delivery mechanism is agreed not to be practical or reasonable, then the Council will consider the Fourth Preference below.

Fourth Preference

- **Payment of commuted sum** to the Council in lieu of any other preference. The sum to be paid is equivalent to the contribution sought for the other preferences (as detailed in paragraphs 2.8 and 2.9). This Preference will generally only be acceptable where the first three above are deemed not to be practical or reasonable by the Council – there may, for example, be exceptional reasons why on-site provision is problematic or where there are opportunities to achieve economies of scale by pooling the affordable contributions from several small schemes on one site (Third Preference). The Council must be confident that the commuted payments can be spent on providing affordable units in the foreseeable future i.e. a suitable site, which complies with planning policy, is available and is within the control of the Council, RSL or the provider. The timescale for payment

of commuted sums will be negotiated on a site by site basis. The Council will accept the payment of commuted sums in instalments linked to the phasing of large housing developments. Any financial contributions may be “banked” until sites are available and will be “ring fenced” for affordable housing purposes in mainland North Ayrshire. Such “banked” contributions will only be used for the provision of affordable housing. The Council will keep an open account of its use of such payments.

- 3.7 Any legal costs, valuation costs and outlays incurred by the Council in relation to the negotiation, drafting, execution and registration of a required legal agreement will be paid by the developer.
- 3.8 Developers should note that the provision of public sector subsidy is not guaranteed, and where subsidy is not available, this will directly influence the Council’s preferred delivery option, although the policy’s requirement to deliver affordable housing remains.
- 3.9 Should land or finances which are transferred to the Council not be used or be programmed for affordable housing purposes within a reasonable period of time, defined as 5 years from the final instalment, then these assets will be returned, in the case of financial contributions together with interest at the ‘Bank Rate’.
- 3.10 A developer who seeks relaxation to this policy must submit justification verified by an independent consultant acceptable to the Council. The Council shall have the final decision on any relaxation to the policy.

4. Allocation and Management of the Affordable Housing Stock

- 4.1 Where the affordable housing has been provided for social rented purposes, the tenancy will be allocated according to a needs-based allocation system administered by the RSL and the Council. The upkeep, management, day-to-day running and occupancy conditions of the units will be as set by the appointed RSL. The units will be available at a recognised level of affordable rent.
- 4.2 Shared Equity properties are allocated to those who prove to be eligible, based on a local set of criteria agreed by the appointed RSL involved and Scottish Government. The individual properties are then allocated in order of completed applications received by the landlord.
- 4.3 The stake taken is normally between 60 and 80 per cent of the price of a property, according to the maximum mortgage a household can obtain and the personal contribution they are able to make. In the majority of cases, a Shared Equity owner will have the option to increase their stake after their initial purchase to 100 per cent. However, in certain circumstances the appointed RSL will be allowed to keep a 20 per cent stake in the property. This is known as a “golden share” and is likely to happen in areas where

there is only a small amount of affordable housing and few opportunities to build more affordable homes.

- 4.4 Shared Equity properties in the North Coast SHMA may be subject to a “golden share”. The appointed RSL may also keep a golden share where a home has been adapted for particular housing needs and might otherwise be lost for this use in the future. When Shared Equity properties are advertised, it will be made clear if an appointed RSL will be allowed to keep a golden share.
- 4.5 The owner occupiers of Shared Equity properties are responsible for all maintenance and repair costs. If the property has common and shared areas the owners will be responsible for paying any common maintenance or service charges.

5. Securing the Affordable Housing Contribution

- 5.1 The affordable housing contribution will be secured by means of a legal agreement or unilateral obligation under Section 75 of the Town & Country Planning (Scotland) Act 1997 with the applicant/landowner, which will require to be concluded, and registered in the Land Register or General Register of Sasines prior to the issuing of planning consent:
- (a) Applications for planning permission in principle will require a 10%, 15% or 25% affordable housing contribution depending on the SHMA concerned in terms of the Council’s definition, delivery of which contribution will be made available in line with the policy and guidance of the Council. A legal agreement will be imposed to secure this.
 - (b) Applications for planning permission will require that the land/units specified in the submitted plans and documents be secured as affordable housing in terms of the Council’s definition, delivery of which contribution will be made available in line with the policy and guidance of the Council. A legal agreement will be imposed to secure this. In addition to the criteria above, the following will apply:
 - i. The mechanism and timescale for the delivery of the affordable houses should be agreed between the developer/landowner and both the Council and RSL.
 - ii. A restriction that prevents more than an agreed number of private/market units to be constructed and/or occupied before the affordable component is completed and transferred to the RSL. There will be a programme for delivery of affordable housing units.
- 5.2 Responsibility for any costs incurred by the Council in the preparation of a legal agreement, as set out in paragraph 3.7, is that of the developer.

21 March 2011

Affordable Housing Policy: North Ayrshire Mainland

In order to meet the demonstrated need* for affordable housing the Council will seek, for all housing developments (including conversions):-

- (1) of 16 units or more,
- (2) with a site area equal to or greater with an overall market development capacity, as determined by the Council, of 16 units or more

an affordable housing contribution at the following rates:-

Sub-Housing Market Area (SHMA)	Towns	Rate
Irvine/Kilwinning	Irvine and Kilwinning	15%
Three Towns	Ardrossan, Saltcoats, Stevenston	10%
North Coast	West Kilbride, Seamill, Fairlie, Largs, Skelmorlie	25%

The accompanying map illustrates the SHMAs involved.

If a site is being developed in phases, the affordable housing contribution will still apply. A Legal Agreement may be required in order to secure the above objectives.

Note 1

Affordable Housing: Supplementary Guidance for Developers, has been prepared to assist developers in implementing this policy.

Note 2

This policy applies to all housing developments that do not have extent planning permission as at (date to be agreed) with the exception of enabling development permitted to secure the restoration of a listed building in terms of Policy BE6 of the adopted North Ayrshire Local Plan (excluding Isle of Arran) and Policy HE3 of the proposed North Ayrshire Local Development Plan. (This approach in relation to enabling development attains the dual objectives of providing maximum value, while minimising visual intrusion).

21 March 2011

*North Ayrshire Mainland Housing Need and Demand Assessment, December 2009

