



**Developer
Obligations and
Affordable Housing**
Supplementary Guidance

February 2024

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Background & Purpose of this Guidance

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

The purpose of the Planning Guidance is to provide clear guidance on the process for Developer Obligations and Affordable Housing as required in the Aberdeenshire Local Development Plan (LDP) 2023.

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

Part 1 - Developer Obligations

1. Policy Basis

To comply with Policy RD1 Providing Suitable Services, and Policy RD2 Developer Obligations set out in “The responsibilities of developers” section of the LDP 2023, a Developer Obligations assessment may be required for any proposed development. This will be undertaken by the Developer Obligations & Infrastructure Team and will set out the required developer contributions and affordable housing.

The requirements in respect of affordable housing are set out in Policy H2 Affordable Housing of the LDP 2023 and Part 2 of this Planning Guidance.

2. Reasoned Justification

The aim of this document is to set out clear and concise, guidance on the type of development likely to make contributions, and the methodologies used in the calculation of contributions.

3. Evidence

Based on information available during the preparation of the Local Development Plan, and up to the first quarter of 2023, the Council has anticipated where the need for developer obligations will arise. It is not possible to identify this in every case.

Decisions on whether Developer Obligations are required will be based on the Settlement Statements and other relevant documentation linked to the adopted LDP, and the modelled impact of the development on existing infrastructure and facilities, all within the context of the tests set out in Circular 3/2012 as set out below.

The Settlement Statements set out the key requirements for facilities and likely infrastructure to which development is required to contribute. However, Settlement Statements may be overtaken as circumstances change during the life of the LDP, a live database is kept of all infrastructure requirements. This is updated as and when further information becomes available on the anticipated impact of development and the Council’s Capital Plan, School Roll Forecasts and Housing Land Audits are updated.

4. Policy Tests

Any developer obligations sought must be linked to the specific development and meet the tests set out in Circular 3/2012 and embody the infrastructure first principles with NPF4. Developer obligations must:

- Be necessary to make the proposed development acceptable in planning terms.
- Serve a planning purpose and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans.
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area.
- Fairly and reasonably relate in scale and kind to the proposed development.
- Be reasonable in all other respects¹.

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

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

Proportionate contributions are based on the impact of the development on existing infrastructure and amenity of the settlement in which the development is located. This also applies to infrastructure which although not located within the settlement, directly serves the development.

Infrastructure requirements for each proposal will vary. In some instances, it may be more cost-effective for the developer to provide these as works “in Kind “.

¹ From Circular 3/2012

If further impacts on infrastructure capacity are discovered through the planning process in addition to the elements identified through an initial assessment, these will also be assessed. The level and form of developer contribution will be assessed on an individual basis, as each site is assessed on its own merits.

6. Front Funding of Infrastructure

The principles of Infrastructure First are embedded within NPF4 within the Policy Intent, Policy Outcomes and Policy 18. Providing the infrastructure necessary to allow a development to proceed may require the Council or other partners to incur costs while working in partnership with developers, or through front funding of investment. Such expenditure will need to be recouped and where appropriate, contributions will be amended to reflect the actual costs incurred as opposed to the estimated costs set out in methodologies contained in this guidance. Circular 3/2012, provides that Local Authorities can recover proportionate payments from subsequent developments which benefit from initial investment until the costs have been recovered in line with the agreed planning obligation/legal agreement.

7. Engagement with Development

Developers and Landowners are encouraged to engage with the Developer Obligations & Infrastructure Team to obtain a Developer Obligations Assessment for any proposed development. The Council encourages early engagement by all Developers and Landowners and offers a pre-application advice service which also includes a Developer Obligations Assessment. Once an application for planning permission is submitted, an assessment will be carried out by the Developer Obligations Team, through consultation from the Development Management Case Officer. All assessments will be undertaken in accordance with Regulation 25 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

8. Development Requiring Contributions

As noted in section 5, development that creates new housing units or commercial floor space may require a contribution towards infrastructure. The Developer Obligations & Infrastructure Team establishes where mitigation is required, working with internal services and external agencies to ensure evidence is provided to justify

any required contribution. During the assessment process, each policy test in Circular 3/2012 and the Local Development Plan is considered and where all policy tests are met, and sufficient evidence demonstrating need, proportionate contributions will be sought.

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

Residential Development: All planning applications which involve the creation of a new dwellinghouse. Single units will only be assessed for education contributions. The sub-division of larger sites into multiple single dwelling developments to avoid making a contribution towards other necessary infrastructure will not be excluded from the Developer Obligations process. In cases where multiple related applications are received by the Planning Authority, consideration will be given to the cumulative impact of the whole development and contributions sought for the overall infrastructure impact.

Commercial Development: All development where the need for local transportation mitigation measures has been identified and justified.

Other applications: Where the Development Management Service considers the proposal to be of a scale or type of development where infrastructure is necessary to make the proposed development acceptable in planning terms it will be necessary for the developer to engage with the Developer Obligations & Infrastructure Team.

Types of Development Exempt from Developer Obligations: There are some categories of development where it has been accepted that full or partial policy considerations will be departed from and exemption from the need for developer obligations may apply. These include:

Individual House Purchasers: For residential developments, the Council will not expect the individual, human purchasers of the completed residential units to have liability for any of the financial contributions but for avoidance of doubt this will not apply to corporate or other such entities. These will rest with the developer.

Student Accommodation: Provided the planning permission conditions restrict development solely to these uses they will not generate resident children and place an additional burden on the existing schools. Education contributions will not be

required but will be expected for all other needs. Any proposal to change these types of accommodation into mainstream housing will require a new planning permission, and contribution will be sought at this time (if necessary).

Sheltered, Extra Care: Provided the planning permission conditions restrict the development solely to these uses they will not generate resident children and place an additional burden on the existing school and will not impact on the need for additional education facilities. Further, they will not be expected to contribute to community or sports and recreation facilities. They will be expected to contribute to all other needs. Any proposal to change these types of accommodation into mainstream housing will require planning permission, and contribution will be sought at this time (if necessary). Over 55's etc or other age limited accommodation is not sheltered or extra care and does not require permission to change to open market units. They may be conditioned by the developer by legal burdens, but the Council cannot enforce these, and they can be varied or discharged without the Council's input. As such they are not given this exemption.

Short Term Let Serviced and Holiday Accommodation: These developments will not be expected to contribute to education and healthcare facilities provided the planning permission is conditioned solely to these uses. Any proposal to change these types of accommodation into mainstream housing will require planning permission, and contributions will be sought at this time (if necessary).

Replacement Houses of a recently occupied dwelling will be exempt from contributions as they are already factored into impact on infrastructure and do not constitute an additional impact.

Development in all town centres identified in the Local Development Plan 2023.

Residential Annexes where conditioned to be ancillary to the main property as they are small scale development so it would not be reasonable in scale and kind.

Residential unit above a garage where conditioned to be ancillary to the main property as they are small scale development so it would not be reasonable in scale and kind.

Small development In light of the small-scale nature of the development, and to ensure it meets test of being reasonable in scale and kind, it is considered

necessary to apply a discount of 80% to the contribution sought for education mitigation for single unit developments, and 60% for developments that propose 2 or 3 units.

Temporary Caravans conditioned as such will be exempt from contributions as they constitute a temporary and limited additional impact.

9. Review of Impact on Infrastructure

Further applications will require to be reassessed in the determination of any new applications for the renewal of planning permission, (including Section 42 applications and updated development proposals) for development which is already consented. This will ascertain the impacts of the development against the most up to date provisions of the LDP and infrastructure data base. This could result in increasing or decreasing the developer contribution costs, or adding or removing elements of infrastructure for which a contribution is required. In assessing the need for revised developer contributions, the Council will always take into consideration any developer contribution payments received to date for the development site in question. If the revised Developer Obligations assessment causes viability issues, then the viability procedure as set out section 10 and Appendix 1 of this Planning Guidance should be followed.

10. Development Viability

Aberdeenshire Council acknowledges that unforeseen costs can affect development viability and may take this into account dependent upon circumstances. There is a requirement for all developers to undertake a full viability appraisal at the outset of their development which considers all likely costs including developer obligations and affordable housing in accordance with Policy RD2 Developer Obligations and Policy H2 Affordable Housing of the LDP 2023. Aberdeenshire Council cannot consider issues of viability where this has not been undertaken.

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

11. How will Developer Obligations be secured and managed?

It is Aberdeenshire Council's preference that in appropriate circumstances conditions on planning permission are used to provide necessary infrastructure.

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

12. Upfront Payments

Where an upfront payment is required, the applicant must make payment with Aberdeenshire Council in terms of Section 69 of the Local Government (Scotland) Act 1973.

13. Phased Payments & Indexation

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

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

14. Management of Funds

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

The council undertake to spend contributions received in respect of an appropriate project or projects in line with the detail of assessment within 10 years of the date when the last contribution is paid. In the event of the contribution or part of it not being spent within this time period and on receipt of request for refund the contribution, or part, will be refunded to the party who made the payment or their nominee along with relative interest accrued, and where applicable, net of any

additional administrative costs directly attributable to the particular contribution to be refunded. The authority and proof of the identity of the party who made the original payment will be required to process any refund.

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

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

1 bed = 0.6

2 bed = 0.8

3 bed = 1 'standard sized unit'

4 bed = 1.2

5 bed = 1.4

6 beds = 1.6

For Planning Permission in Principle applications, where specific details of development are unknown, rates are based on location either per standard house unit, or per square metre (sqm) for commercial/retail premises, however a formula may be included within the Section 75 agreement to allow the contribution to be calculated based on the final mix proposed or a subsequent assessment undertaken.

All rates as set out in this guidance are correct as of Quarter 1-2023 and will be reviewed and published on an annual basis in line with the General Building Cost Index as published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors and reviewed every two years to ensure they are in line with actual costs incurred. The published index linked rate for the year the application is submitted will be used in the assessment report.

15.1 Transportation

All developments will be assessed in terms of their impact on the transport network and may be required to mitigate these impacts. All developments, where impacts

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

Transport infrastructure requirements and costs will vary from site to site. This is set out in more detail in Appendix 2 of this guidance. A Transport Appraisal (DPMTAG) was also carried out to help inform the Local Development Plan.

Developers are encouraged to contact the Council's Roads Development Team, as early as possible in the development process to ascertain the likely transport infrastructure requirements that will be sought in order that these can be factored into early site development viability calculations.

15.2 Education

When and where do they apply? In order to ensure the necessary infrastructure is delivered timeously to meet the required need, mitigation will be sought from all residential development where either alone or cumulatively with other development in the catchment area the primary and/or secondary school roll is projected to exceed 100% of the total capacity.

The required additional capacity will be provided by the most appropriate method by either a permanent extension, reconfiguration of the existing building to provide additional classroom space, or through the erection of a new-build school. As these separate methods have differing associated costs, separate rates will be applied to each. These rates are identified below. If the necessary capacity required by a development can be delivered through a rezoning exercise, then a contribution will be sought towards the cost of the rezoning consultation required. School catchment rezoning is a separate statutory process so in the event that a rezoning application is not approved, then alternative mitigation would need to be explored.

How is the contribution calculated? Calculations will be calculated for each development and are based upon the content of the Housing Land Audit (HLA) and

published School Roll Forecasts (SRF) for Aberdeenshire using the following formula:

$$\text{Average Number of Pupils Over Capacity period} \times \text{Rate of Mitigation} = \text{Contribution}$$

The average number of pupils over capacity shall be expressed as a percentage of the number of houses proposed by a development against the total number of houses built within the school catchment during the 5-year period.

Contributions are calculated on the basis of the average number of pupils that the school(s) are over capacity over the 5-year period following the submission of a planning application.

Contributions relating to applications for Full Planning Permission and Matters Specified in Conditions shall be calculated using Standard House Unit Equivalents. This shall ensure that contributions are proportionate and related in scale and kind to the development proposed.

Where the phasing of development increases the build out period beyond 5 years, contributions for the extended period of development and remaining housing units shall be calculated using the following formula:

$$\text{Number of Houses Remaining} \times \text{Relevant Pupil Product Ratio} \times \text{Rate of Mitigation}$$

Rates

The rates per pupil as set out below reflect an update of the costs incurred by the Council as indexed in line with BCIS for delivering education infrastructure and are in line with the Scottish Futures Trust space standards and rates per sqm.

Primary Education

Type of Mitigation	Rate per pupil
<input type="checkbox"/> New Build	£27,146.00
<input type="checkbox"/> Permanent Extension	£23,527.00

<input type="checkbox"/> Reconfiguration	£9,948.00
<input type="checkbox"/> Rezoning	£4,851.00

Secondary Education

Type of mitigation	Rate per pupil
<input type="checkbox"/> New Build	£33,207.00
<input type="checkbox"/> Permanent Extension	£30,188.00
<input type="checkbox"/> Reconfiguration	£13,264.00
<input type="checkbox"/> Rezoning	£4,851.00

Land Requirements

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

Primary School:

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

Secondary School:

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

Consultation should be undertaken with the Council in respect of the location of any school sites as part of a development and serviced land provided to be reasonably level topography and at nil value or to proportion of value generated by the

development and a proportionate financial contribution towards the buildings. The market value of the remainder of the land shall be based upon its use as a site for an education facility only.

15.3 Healthcare Facilities

Healthcare facilities can include General Medical Services (GMS), Dental Services, Community Pharmacies and Health and Social Care Partnerships (where it can be identified there is need for provision in the GP Practice), or such other infrastructure systems relating to those which will offset the impact of development e.g., remote consulting, reconfiguration etc.

When and where does it apply?

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

The baseline is identified as the recommended number of patients of 1500 per Practitioner. Contributions may be sought for a new build facility, permanent extension or internal reconfiguration works to provide additional capacity, or such other infrastructure relating to those which will offset the impact of development e.g., remote consulting, reconfiguration etc. The mitigation will be based on required infrastructure capacity to deliver the number of GPs as opposed to number of staff currently employed in premises.

NHS National Services Scotland & Scottish Government provide national guidance on standards and specification for healthcare facilities. This document has not been updated to reflect either the impact of Health and Social Care, or new technologies and further evidence will be provided by the Council from data provided by the NHS on the mitigation and costs of these when contributions are sought towards those instead of physical buildings.

How is the contribution calculated?

No of SHUE x Relevant Rate = Contribution

The Scottish Health Planning Notes identify a floorspace requirement per GP of 271m², with each GP capable of accommodating a maximum of 1500 patients, however that is based upon new build so is not a baseline measurement of capacity in existing premises so mitigation works to existing buildings will need to have regard to their existing individual layouts and practical functionality.

The delivery of primary healthcare provision now also includes a number of Health and Social Care Partnership and linked worker services located within the same facility and so additional floor space for these will need to be accounted for.

The total project cost is based on information provided within the Quality & Efficiency document produced by Scottish Futures Trust. The Build Cost per square metre is then multiplied by floor area, patients per GP, and the average household size which results in the relevant contribution. Where updated costing for individual projects is available this will be used to inform the relevant contributions and update any review of the undernoted mitigation rates.

Required mitigation	Contribution per SHUE
Permanent Accommodation	£ 1,702.00
Internal Reconfiguration	£1,001.00

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

15.4 Waste And Recycling Facilities

Development may generate a need for new or additional waste and recycling facilities to service the growing population. The Settlement Statements identify where there is a requirement for new or replacement facilities to serve communities

in line with the Updated Integrated Sustainable Waste Management Strategy for Aberdeenshire 2001-2020.

Contributions are calculated at a cost per standard house unit equivalent and will be spent on facilities that serve the local population. Costs per household for each type of facility are set out below. Appendix 15 of the Local Development Plan provides information on the standards expected from developments for their contributions to waste management.

Type Of Facility	Contribution Per SHUE
Household Waste & Recycling Centres	£138.00
Waste Transfer Stations/Bulking Points	£239.00

15.5 Community Halls & Facilities Including Sports & Recreation Facilities

Community facilities include provision such as town, community and village halls, and other open space community facilities such as allotments, children's play areas and path improvements. Sports and Recreation Facilities Contributions will be invested within the relevant secondary school catchment area or nearest service centre which provides the mitigation. Contributions will usually be tied to the delivery of a given project but given the time it can take to accrue contributions, and in order to respond to emerging alternative mitigating community facility and sports projects, they may be reallocated. In allocating contributions, the Council will give due regard to where these contributions have come from to ensure that the investment mitigates the impact of development.

When and where do they apply?

Contributions for community halls may be required where the capacity of existing facilities will be impacted by new development, subsequently detracting from the amenity of existing residents unless mitigation is implemented. For community halls, financial contributions may be secured towards internal reconfiguration or other works to enhance the capacity of the building, additional works in the form of an extension, or a new build facility or to costs of other community facilities. During the

assessment process, detailed consultation is undertaken with relevant services and Area Management Teams. Where a contribution is required, the Council shall evidence that the proposed development shall impact on existing provision.

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

How is the contribution calculated?

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

Calculation = No of SHUE x Relevant Rate = Contribution

Required Mitigation	Contribution Per SHUE
Permanent Accommodation	£1,761.00
Internal Reconfiguration	£940.00

Contribution to other community facilities

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

15.6 Sports and Recreation Facilities

Sports and recreation facilities include both indoor and outdoor facilities or any facility or playing surface used for sports including but not limited to include football pitches; cricket pitches; rugby pitches; hockey pitches; bowling greens; tennis; multi-

sports courts; skate parks; cycle/athletics tracks; and associated land acquisition, ground enabling works, changing facilities, lighting, fencing, spectator areas and parking.

How is the contribution calculated?

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

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

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

Type Of Facility	Contribution Per SHUE
Outdoor Sports Facilities (New Build/Extension)	£189.00
Outdoor Sports Facilities (Reconfiguration)	£123.00

Outdoor Sports Pavilion £259.00

Outdoor Sports Pavilion £155.00
(Reconfiguration)

Indoor Sports Facilities & Community £ 476.00
Learning Hubs (New Build/Extension)

Indoor Sports Facilities & Community £ 334.00
Learning Hubs

Part 2 - Affordable Housing

1. Policy Basis

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

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

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

For development in all Town Centres identified in the Local Development Plan 2023, it has been accepted that policy considerations will be departed from and exemption from the need for affordable housing contributions will apply.

Planning Advice Note (PAN) 2/2010 and the More Homes Division Guidance Notes 2020/02 – Affordable Housing Supply Programme: Processes and Procedures² offer guidance on the role of planning authorities in the provision of affordable housing and this Planning Guidance reflects the terms of those planning policy documents and Policy 16 NPF4.

² View the latest guidance note at: <https://www.gov.scot/publications/affordable-housing-supply-guidance-notes/>

2. Priority and Need for Affordable Housing

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

<u>Our People</u>	<u>Our Environment</u>	<u>Our Economy</u>
Education	Infrastructure	Economy & Enterprise
Health & Wellbeing	Resilient Communities	Estate Modernisation

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

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

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

3. Affordable Housing Requirements

3.1 Engagement

The aim of this Planning Guidance is to ensure that development assists in the provision of affordable housing in perpetuity and this approach is fair to all. The type of affordable housing and the form of the contribution will vary between locations as housing need changes overtime. An assessment as part of pre-application discussions will determine the actual requirement and the form of provision specific to the particular development.

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

3.2 Types and Tenure

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

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

3.3 Priority and Provision of Affordable Housing

Delivery of affordable housing is the prime objective of the LDP policy and requires close liaison between the private sector and the Council's Affordable Housing Team to ensure that land or units secured for affordable housing development is implemented timeously. Developers should note that public subsidy for the provision of affordable housing is not guaranteed. The policy requirement to deliver the full affordable housing contribution will remain in cases where subsidy is not available. In such cases, alternative means of providing the full affordable housing contribution, such as low-cost entry-level housing, should be discussed with the Council at the earliest opportunity.

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

Priority

1. Serviced land - A fully serviced site of a size capable of providing an area with services for 25% of the proposed residential units and based upon an indicative number, size, type and tenure of units provided by Affordable Housing Team. Land should be serviced, deliverable, accessible and ready to develop on site for the appropriate 25% and will be required to be transferred to Aberdeenshire Council or a Registered Social Landlord (RSL) at a nil land value to reflect policy obligations. The land must be in a state to allow immediate construction i.e., levelled and with all spoil etc. removed and as part of the evidence of this further diligence will be undertaken by the Council to ensure that the land can be developed. This will require provision of:

- (1) Title information restrictions;
- (2) Plans if available;

- (3) Access restrictions;
- (4) Planning restrictions including Local Plan designation;
- (5) Proximity & Location of existing Site Services;
- (6) Any capacity restrictions, Ground Conditions / Site Investigations if available; and
- (7) Site topographical survey if available.

Second - Social rented accommodation - Housing provided at an affordable rent which is owned, managed, or leased by the Council or an RSL. Agreement will be required on the number, type and mix of affordable housing units on site, including meeting any standards that are required such as:

- Housing for Varying Needs standards, including fully wheelchair accessible;
- fire suppression systems; and
- Energy efficiency for social housing in Scotland.

Third - Mid-market rented accommodation - (MMR) is Housing provided through an RSL, the Council, a council intermediary, or community organisations at rental levels below the Local Housing Allowance rate (LHA), typically utilising Scottish Government funding. It can also be provided without subsidy by the developer provided it meets the Council's criteria for MMR requirements in the relevant Housing area with rentals below the prevalent LHA. Any MMR provision, including corresponding management policies and nomination rights requires to be agreed with the Council.

Fourth - Shared equity and discounted low-cost housing for sale, including discounted serviced plots for self-build - This is where housing/plots are sold at a percentage discount of its open market value. The council has its own successful, Low-cost shared equity scheme. The appropriate sale prices are discussed below;

Fifth- Housing without subsidy -The sale price should be informed by the HNDA and terms and agreed by the Council to ensure that the dwelling remains subsidised at an affordable level in perpetuity.

Six - Commuted Sums as last resort - these are discussed below.

3.4 *Timing of Delivery*

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

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

3.5 *Triggers*

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

3.6 *Site Viability*

The Council recognises that a requirement to contribute to affordable housing needs will result in a cost to the Developer and Landowner however this is required to be accounted for in any development appraisal and reflected in land value agreed with site owners. This result follows inevitably from government policy, which identifies a 25% affordable housing target. Similarly, to offset the costs of any infrastructure or community facilities that are caused by the development as a whole, developers will be expected to take these into account in their development appraisal and when negotiating a land value with site owners. The Council's policy on developer obligations applies to all developments irrespective of the provision of affordable housing, and vice versa.

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

3.7 Aggregation

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

3.8 Affordable House Prices

The prices have been determined using "A Practitioners Guide – Housing Need and Demands Assessment October 2020"³ which sets out that a house is affordable to purchase if its price does not exceed 3.9 times a household's average income. The maximum prices applicable to the low-cost housing for Sale, Social rent and Shared Equity options will be updated and published on the Council website.

3.9 Design

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

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

³ Available at <https://www.gov.scot/publications/hnda-practitioners-guide-2020/>

adherence to the LDP's design policies and be addressed at the time of any pre-application consultation.

3.10 Off-site Provision

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

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

Where the developer is not constructing the affordable housing, the affordable housing site on the secondary site must be transferred to the Council or a Registered Social Landlord prior to the occupation of an agreed number of private houses on the primary site.

Where the developer is delivering the affordable housing on the secondary site, it is likely that the corresponding number of units on the main development site will need to be reserved and not released for private market housing until the corresponding number of offsite affordable houses have been delivered.

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

3.11 Commuted Sums

Councils and RSLs are not able to compete with private developers to acquire land and hence the need to comply with the affordable housing policies. Commuted Sums will only be accepted in lieu of on-site provision, in rare and exceptional cases

for example where no suitable sites are brought forward following the priorities as set out above or where there is no public subsidy or if unforeseen costs and viability issues have arisen and been accepted.

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

The Commuted sum must be spent within the local housing market area which means the Aberdeen Housing Market Area or Rural Housing Area. However, we believe, that any assessment of expenditure of such commuted payments will be required to be spent locally with regards to the development to accord with Circular 3/20/12.

Appendix 1 – Viability

Financial viability can have regard to not just a single policy's impacts but the cumulative impact of policy requirements and developer contributions.

Land Value

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

The Royal Institute of Chartered Surveyors (RICS) guidance on Assessing viability in planning under the National Planning Policy Framework 2019⁴ confirms this, and the District Valuer (DV) when instructed by the Council has adopted and used the RICS's guidance as the most appropriate. The use of the DV in this way is supported by paragraph 22 of PAN 2/2010 setting out this as recommended good practice.

Unexpected Costs

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

Viability Requirements

For unforeseen costs to be considered an applicant is required to prepare and submit the following:

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

⁴ <https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/land-standards/assessing-viability-in-planning-under-the-national-planning-policy-framework-2019-for-england-rics-guidance-note-1st-edition>

assumptions. The report should detail the financial implications of the additional costs and their implications for the viability of the development.

- A certified dated copy of the original viability appraisal setting out the allowances made for developer obligations and affordable housing policy and compatibility with prevailing policy requirements.
- From a RICS accredited firm a Quantity Surveyor's (QS) detailed cost budget on development costs e.g., externals, infrastructure, and abnormal costs which include a detailed breakdown, produced in accordance with RICS published costing data and with regard to the recommended practice set out in the RICS Practice Statement Financial Viability in Planning: Conduct and Reporting (2023) ⁽⁰⁶⁾.
- Verified site valuation at the time of the application submission.
- Projected market valuations for each property within the development (with supporting evidence).
- An indication of the timescales within which each property would be marketed and sold and, where appropriate, development phasing information.
- Design and Access statement (if applicable and available).
- Detailed appraisal (current costs/values) and cash flow.
- Build specification.
- Rents and yield assumptions for all commercial elements (with supporting evidence).
- Assumptions on all grant funding and (where appropriate) evidence of transactions/negotiations with RSL's.

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

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

Outcomes of the Viability Exercise

Once a Development Viability Statement and supporting information is received by the Council it will be independently reviewed by the District Valuer Service (DVS). This will be carried out at the developers' expense with costs determined on an individual basis. The requirement for independent verification of Viability Assessments will only be removed where the time and cost associated with this process is disproportionate to the amount of developer contributions or affordable housing required. Each case will be determined by the Council on its own merits.

The outcome of the Viability Assessment review will not be binding on the Council but may inform any recommendation to the appropriate planning decision maker. If the exercise establishes there are viability issues with the development, the Council will then have to determine if the shortfall in the infrastructure and affordable housing requirements can be borne by the Council and/or its partners as ultimately the impact of the development will still need to be mitigated and paid for. Not all planning applications can be made viable, and the Developer may have to rethink the form of development proposed to achieve a deliverable development.

Appendix 2 Transport Projects

Background

All developments will be assessed in terms of their impact on the transport network and may be required to mitigate these impacts. Transport schemes associated with developments allocated in the Local Development Plan are separated into two categories, Transport Interventions and Local Impact. A Transport Appraisal (DPMTAG) was also carried out to help inform the Local Development Plan.

The Transport Interventions

These are where one or more allocated sites have a direct impact on more strategic transport links.

To the extent that these have not already been appraised and mitigation secured, the Transport Intervention for the schemes for the relevant settlement are set out as undernoted. These will be subject to further detailed appraisal and design work primarily from the relevant developers, taking account of the cumulative impact of development and which will inform the requirements for any future planning conditions or planning obligations. Delivery of interventions will be secured by planning condition or obligation. For the avoidance of doubt, the appraisal and design of interventions will incorporate the relevant Passenger Transport Strategy and Walking and Cycling Plan or proposed replacement thereof comprising the Local Transport Strategy, Integrated Travel Town Masterplans (<https://www.aberdeenshire.gov.uk/roads-and-travel/transportation/integrated-travel-towns/>) and Active Travel Network Action Plan (anticipated to be published early 2024).

Where Planning Obligations are sought towards any Transport Interventions, such obligations will only be used in cases where the contributions can be justified through the tests set out in Circular 3/2012.

The allocated sites tasked with contributing, or delivery of these Transport Interventions is noted alongside them and reflects the position as set out in the Settlement Statements in the LDP.

Settlement and Transport Interventions Required	Timing of Interventions	Design and cost	Delivering allocations
<p>Inverurie A new Grade Separated Interchange (GSI), replacing both the existing Port Elphinstone and Thainstone Roundabouts on the A96(T), including an underpass at the site of the current Port Elphinstone Roundabout, to carry the B993 Kemnay Road, the principle of which has been agreed with Transport Scotland, with the design and cost to be finalised by the developer as the development progresses.</p>	<p>The GSI to be funded and delivered by the developer prior to occupation of the 300th Housing Unit on sites OP5 & OP6.</p>	<p>Design and cost to be finalised by the developer as the development progresses. The proposed pedestrian/cycle underpass to the north of Port Elphinstone Roundabout, as well as the underpass of the A96 for the B993 and new grade separated interchange will be dealt with by suspensive condition as opposed to being secured by a Legal Agreement.</p>	<p>Sites OP5 & OP6, subject to any updated Transport Assessments, which demonstrates alternative and acceptable mitigation, as agreed by Aberdeenshire Council following consultation with Transport Scotland.</p>

<p>Kintore Upgrades to the B987 and A96 Broomhill roundabout are required as per current planning permissions. Any updated Transport Assessments for additional development on sites OP1, OP2 & OP4, will consider the cumulative impact of all these sites, and incorporate the relevant Passenger Transport Strategy and Walking and Cycling Plan or proposed replacement thereof comprising the Local Transport Strategy, Integrated Travel Town Masterplans (https://www.aberdeenshire.gov.uk/roads-and-travel/transportation/integrated-travel-towns) and Active Travel Network Action Plan (anticipated to be published early 2024). These TA's will determine</p>	<p>Improvements to be delivered prior to commencement of any development on sites OP1, and OP3 & 4 along with BUS 3 & (anticipated by 2026 as narrated in the Housing Land Audit 2023) subject to any updated Transport Assessment,</p>	<p>Design and cost to be finalised by the developer OP1, and OP3 & 4 along with BUS 3&4 as the development progresses.</p>	<p>OP1, and OP3 & 4 along with BUS 3 & 4 Subject to any updated Transport Assessment, which demonstrates alternative and acceptable mitigation or timing, as agreed by Aberdeenshire Council in consultation</p>
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<p>the final extent and design of the interventions required on the A96.</p>	<p>which demonstrates alternative and acceptable mitigation or timing, as agreed by Aberdeenshire Council in consultation with Transport Scotland.</p>		<p>with Transport Scotland.</p>
<p>Kintore Railway station The Council has contributed toward the front-funding and delivery of the Kintore railway station and any development which will raise transport implications from residential or commercial development and impact on this key piece of infrastructure should be assessed and make a proportionate contribution. The capital cost is £13,000,000 but the Council only seeks to recover towards the Council's contribution of £3,396,340.</p>	<p>During the build out of sites in Kintore and Inverurie.</p>	<p>The Council has contributed toward the front-funding and delivery of the Kintore railway station and any development which will raise transport implications from residential or commercial development and impact on this key piece of infrastructure should be assessed and make a proportionate contribution. The capital cost is £13,000,000 but the Council only seeks to recover towards the Council's contribution of £3,396,340. The methodology for the costs is set out in Appendix 3.</p>	<p>All allocated Kintore sites, Crichton OP5 & OP6 Inverurie and any sites referencing use of station in their Transport Assessment as a means of reducing road-based travel.</p>

<p>Peterhead The OP1 site will require at least two pedestrian/cycle crossings of the trunk road (A90) to connect the OP1 site with the wider settlement to the east and to the proposed Peterhead Academy at Kinmundy Road. At least one crossing should link the Formartine and Buchan Way (Core Path) across the A90 (T).</p>	<p>To be delivered by the developer prior to the occupation of any Housing development on OP1 (anticipated by 2026 as narrated in Housing Land Audit 2023) subject to any updated TA, which demonstrates alternative and acceptable mitigation, as agreed by Aberdeenshire Council in consultation with Transport Scotland.</p>	<p>Design to be finalised by the developer of OP1 as the development progresses</p>	<p>The cost and delivery to be met by the developer of Site OP1 Peterhead.</p>
<p>Mintlaw Toll of Birness Junction Improvement comprising a roundabout.</p>	<p>Development in Mintlaw is currently constrained until the Toll of Birness junction is upgraded. No further development on allocated sites impacting on the capacity of the Toll of Birness junction will be granted planning permission without contributing to the costs of enhancing the capacity of the junction or delivering the required mitigation.</p>	<p>Design and cost of works to be finalised as the development progresses. The current contribution per house is based upon a proportion of all the allocated housing allocations within Mintlaw impacting upon the junction. The level of contribution will be reviewed once further design and costing works are undertaken to evidence this. For commercial sites, the impact will be assessed via Transport</p>	<p>This is a key junction and allocated development sites in and around Mintlaw, including but not limited to OP1, OP2, OP3, OP4 OP5 & OP6 which will have an impact on the junction will require to contribute towards its upgrade. Contributions will be paid to Aberdeenshire Council and refunded to relevant party who undertakes the</p>

		Assessment which may identify a requirement for further contributions to the junction, which will be pro-rated against the housing contributions, and secured by a S75 Legal Agreement.	junction works. Aberdeenshire Council is actively pursuing other funding sources to front fund this development.
Ellon Improvements to the A90/A948 junction (northern Ellon / Balmacassie).	To be delivered by the developers. The limits on development and form of mitigation will to be derived from and subject to any updated TA, which demonstrates alternative and acceptable mitigation as agreed by Aberdeenshire Council in consultation with Transport Scotland.	Design and cost of works to be finalised as the TA and development progress.	Sites, OP4, CC1 or any other allocated or windfall sites whose TA demonstrates the proposed development having a more than de minimis impact.

Ellon Improvements to A90/B9005 South Road junction.	The limits on development and form of mitigation will be derived from and subject to any updated TA.	A Transport Assessment is required to identify mitigations required at the A90/B9005 junction as well as	Site OP1
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		<p>on the A90 corridor to the north and south of the junction taking into consideration all 3 allocations. The scope of the Assessment, as well as any mitigation proposals should consider all of the allocations within Ellon (although OP1 is to deliver the south roundabout improvements) and will be agreed with Transport Scotland through the planning application process and delivered through suspensive conditions.</p>	
<p>Laurencekirk North Junction of the A90 / A937.</p>	<p>Sites at OP1 and OP3 are currently constrained to 200 units until the assessment of the A90 north junction is undertaken.</p>	<p>Design and cost of works to be finalised as the developments progress. A revised Transport Assessment will be required to include a cumulative assessment of the potential transport impacts at the A90(T) north junction for the allocated sites within the agreed Laurencekirk Development Framework, and any other allocation in Laurencekirk that does not have planning permission, to understand what mitigation measures may be required, including how, when and by whom.</p>	<p>Sites OP1, OP3, OP8, R3 and SR1 and any other allocated or windfall sites whose TA can demonstrate as having more than a de minimis impact to be agreed with Aberdeenshire Council in consultation with Transport Scotland.</p>

<p><u>Laurencekirk</u> <u>South junction</u></p>	<p>In 2016 the Scottish Government announced £24 million for the design and construction of a new grade-separated junction at Laurencekirk as part of a package of additional investment alongside the Aberdeen City Region Deal. Transport Scotland continues to prioritise work with objectors to resolve concerns where possible. If it is not possible to resolve all objections it may be necessary for a Public Local Inquiry to be held.</p>		<p>Construction of the scheme itself can only commence if the scheme is approved under the relevant statutory procedures and thereafter a timetable for its progress can be set.</p>
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Local Impact

All developments will be assessed for their impact on the local transport network and may be required to mitigate these impacts. Once the mitigations have been clearly identified, developments will be responsible for contributing to these to ensure this is in place at the appropriate time or phase these to mitigate the impacts of the development.

Where the mitigation is to be carried out by the developer this will generally be secured via a suspensive planning condition, so no contributions are likely to be required.

Developers are encouraged to contact the Council's Transportation Service as early as possible in the development process to ascertain the likely transport infrastructure requirements that will be required.

Appendix 3 - Kintore station Methodology

The first step is to consider the Traffic impact assessment (TA) submitted for the relevant development site. However, failing this use of the TA for the previous developments with agreed contributions can give a comparative figure per residential unit.

The methodology is;

(Trips per annum from development)

divided by (trips per annum from station 350,000) x £3,396,340 (councils' contribution to station) = contribution

Divided number of residential units = £ cost per unit