

On or off site?

Considering the value and approach to affordable housing delivery



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Executive summary



Affordable housing is a crucial element in any housing market, providing a range and choice of homes to meet identified local needs.

In the context of the housing crisis, it has become increasingly difficult to access the housing market, particularly for first-time buyers, leading to growth of the private rented sector (and increased rental costs).

Provision of affordable housing not only helps to address this vicious cycle, but also helps to create mixed and diverse communities and ensures a choice of housing is available.

Whilst National Planning Policy in England expects affordable housing to be provided on-site in the first instance, it states that off-site provision is acceptable where it can be robustly justified and contributes to mixed and balanced communities.

Similarly, in Wales and Scotland, the presumption is that affordable housing will be provided on-site but it is acknowledged that, in certain circumstances, off-site provision of affordable housing may be acceptable. At a local level, many local authorities support off-site affordable housing, in the right circumstances.

Lichfields research has found the majority of Local Plans make some reference to off-site affordable housing contributions. In England and Wales, the approach to off-site affordable housing is set out in a development plan policy, whilst in Scotland, this is more often done within supporting text rather than the policy itself. Albeit the weight supporting text is afforded in Scotland is equivalent to those stated in policy.

In England, almost half of reviewed Plans identified that off-site affordable housing contributions were only considered acceptable in “exceptional circumstances” or “exceptionally”, suggesting a higher threshold must be met than that set out in national policy. In Wales and Scotland, reference to “exceptional” circumstances was found in around a fifth to a quarter of Local Plans.

Lichfields research found a number of benefits related to off-site affordable housing delivery including; off-site contributions often delivered a larger number of affordable units off-site compared to on-site, for example in authorities with a wide range of land and property values.

Off-site provision also supported the ability of local authorities to deliver the right type of homes in the right locations targeting delivery in areas of identified local need, where supply/demand imbalances are greatest.

The flip side highlighted some issues with off-site affordable provision including; overconcentration of affordable housing in particular locations creating market imbalances and delays between commencement of development, receipt of commuted sums by the local authority and then spending of these sums.

Despite these issues, Lichfields has found that off-site provision clearly has a number of benefits and a more positive approach towards such provision, influenced by national policy would support the creation of mixed communities.

Key figures

71% & 74%

of Local Planning Authorities in England and Wales (respectively) reference off-site affordable housing in a development plan policy

22%

of development plans in Scotland reference off-site affordable housing in policy

In addition to local authorities with off-site affordable housing policies; **44%** of LPAs in Scotland have Supplementary Guidance with reference to off-site policies and **26%** in Wales and **14%** in England make reference within supporting text.

47%

of development plans in England with an off-site affordable housing policy or mentioned in the supporting text state it is only acceptable in 'exceptional circumstances'

21%

of LPAs in Wales state off-site provision is only acceptable in 'exceptional circumstances'

24%

of LPAs in Scotland state off-site provision is only acceptable in 'exceptional circumstances'

Key considerations in accepting off-site contributions include:

- Viability
- Development being inappropriate in type, scale or location for affordable housing
- Benefits of delivering off-site affordable housing outweigh those of building on-site

Benefits of off-site provision include:

- Greater number of houses delivered off-site compared to on-site
- Potential to bring forward difficult sites
- Prevents overconcentration of affordable housing in low market areas
- Directs delivery to areas where an identified need exists – rather than simply the areas where new housing is being provided
- Enables restoration of heritage assets and other benefits through acknowledgement of on-site affordability issues

Disadvantages include:

- Lag time between contribution being made and actual delivery of affordable housing
- Overconcentration of affordable housing in specific areas
- Undermines the creation of mixed communities (perceived view)

01 Introduction

The provision of affordable housing is critical to ensure a fully functioning housing market and provide a range and choice of homes to meet identified needs.

National Planning Policy is clear that affordable housing should be delivered on-site in the first instance unless robust evidence can justify off-site provision and the approach set out locally contributes to the objective of creating mixed and balanced communities. In the context of meeting needs and delivering affordable housing, many Local Planning Authorities (LPA) have policies or explanatory text which support meeting affordable needs through off-site provision.

This Insight considers how adopted Local Plans deal with off-site affordable housing provision – whether the approach is set out within policy or in the supplementary text. It tests the hypothesis that there are geographic factors related to the wider housing market which influence the approach adopted in respect of the provision of off-site affordable housing provision and the willingness of LPAs to accept this approach.

Where LPAs have accepted the principle of commuted sums or direct provision of off-site affordable housing our research explores the success and impact of such solutions in meeting housing needs and the delivery of mixed communities.



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02 Context

The housing crisis

The Government has long acknowledged the need to increase housing delivery to address the housing crisis and has set out a number of initiatives to achieve this objective. In 2017, the Government identified its ambition to deliver 300,000 new homes a year¹ in England by the mid-2020s. This target was maintained in the Conservative Party 2019 manifesto. In England net additional dwellings, which includes net completions, conversions, offices to residential and demolitions, have risen and were at the highest level for a decade, reaching 243,770 net additional dwellings² in 2019/20.

Research by Heriot Watt University (May 2019³), which focused specifically on low-income households and people experiencing homelessness, has identified a housing need of 4.75 million households across Great Britain over the next 15 years, based on the current backlog of housing need and homelessness (i.e. people not within private households). Of this total, 3.66 million households are currently in concealed and overcrowded households, including those with serious affordability or physical health problems and people living in unsuitable housing.

The research suggests that the backlog of homes required in England would result in a need for 340,000 homes each year until 2031 (380,000 for Great Britain), significantly higher than the widely publicised Government target figure of 300,000 homes annually. The research estimates that of these 340,000 homes, 145,000 (43%) would need to be affordable, almost double previous estimates.

Notwithstanding the differences in the focus and methodology, both the Government estimates and the Heriot Watt research identify a need for a significant increase in affordable housing delivery and this points to a clear challenge in bringing forward this level of provision, particularly given that a large proportion of affordable dwellings are delivered as a result of wider private sector planning permissions.

¹ 'Building the homes the Country Needs' HM Treasury (Autumn 2017)

² Net additional dwellings Annual Housing Supply (Live Table I22.I23)

³ 'Housing supply requirements across Great Britain for low-income households and homeless people' Research for Crisis and the National Housing Federation, Glen Bramley (May 2019)

Affordable Housing Delivery

The importance of providing affordable homes

There are a number of factors which drive the importance of the delivery of affordable homes including:

- 1 Obstacles to home ownership – the need to address the growing issue of the number of households unable to access market housing and the consequent increase in, and pressures on, the demand for social housing;
- 2 Diversification of housing choice – providing choice for a range of different households; and
- 3 The creation of mixed communities.

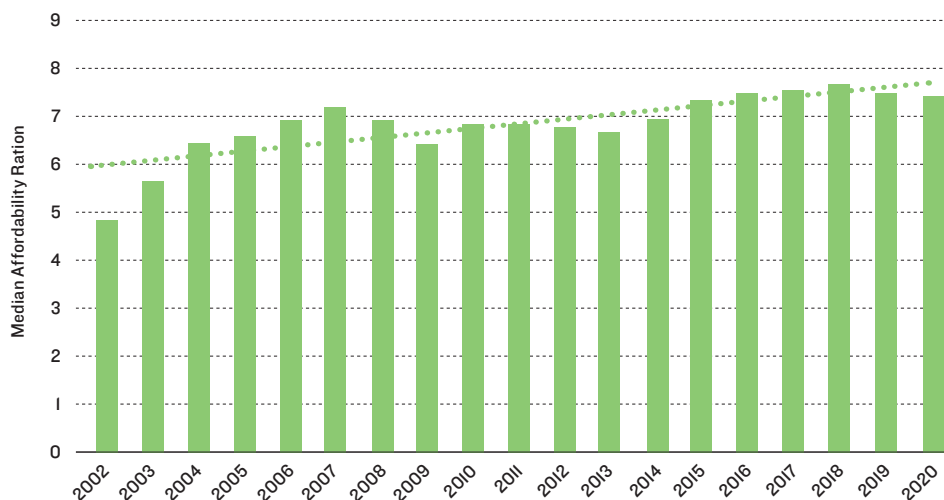
These are discussed further.

Obstacles to private sector housing

Private sector housing has become increasingly unaffordable, particularly for first-time buyers, as house price growth has outstripped growth in wages, resulting in people wanting affordable housing (often intermediate as well as social housing). Secondly, rents are pushed up as increased demand (partly knock on from high house prices) and these higher rents push people towards affordable housing.

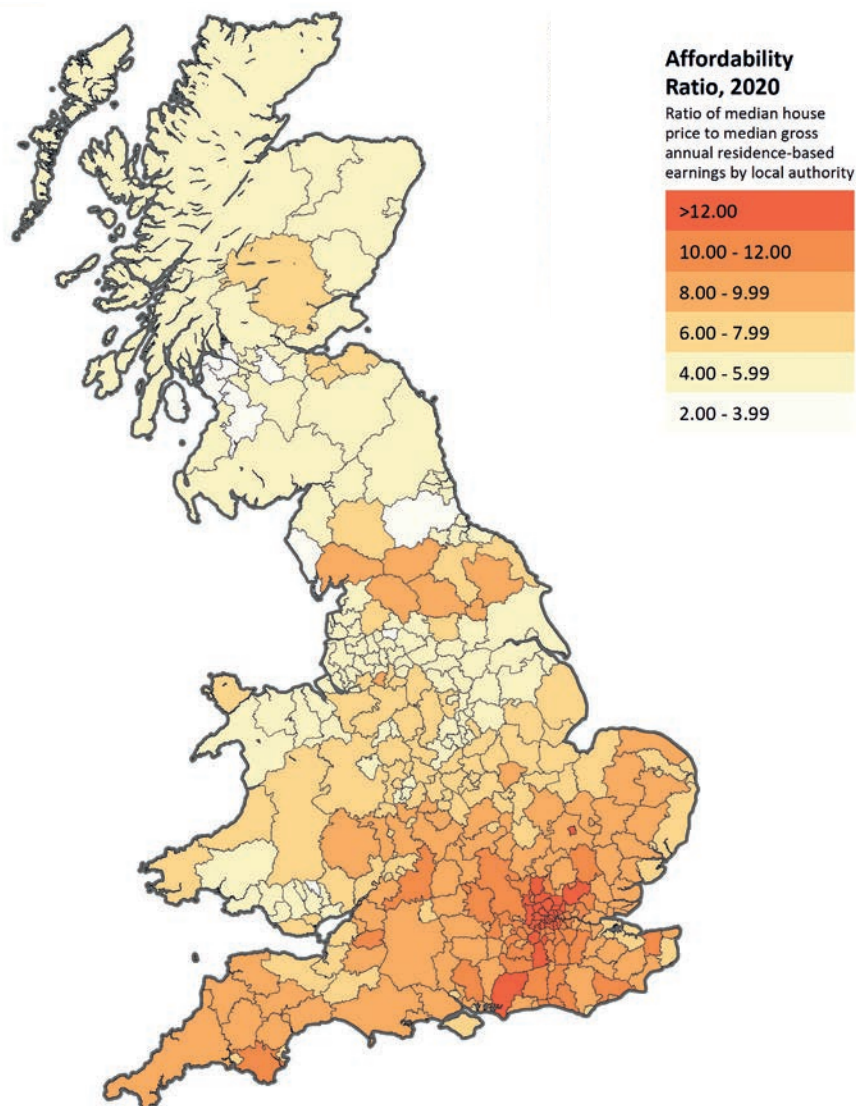
Median house prices in England and Wales are now eight times higher than median earnings (Figure 2.2). In London, the ratio is considerably higher (12.31)(Figure 2.2).

Figure 2.1: England and Wales Median Affordability Ratio



Source: ONS Affordability Ratio

Figure 2.2: Median affordability ratios 2020



Source: England & Wales ONS 2020/Scotland Lichfields estimate

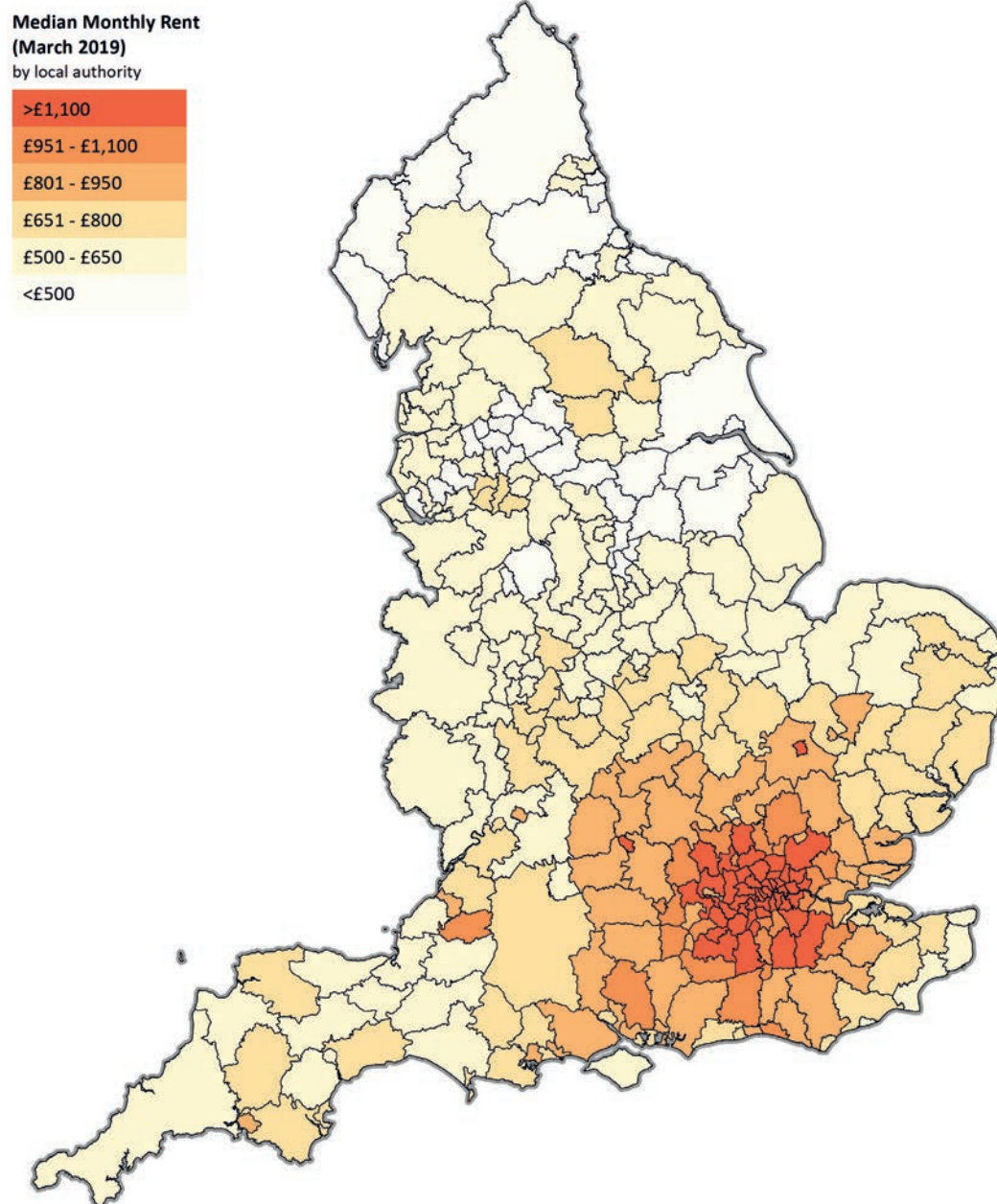
The decline in the affordability of private sector housing alongside the difficulties for renters to save for a deposit to purchase a home due in part to the high cost of renting, has increased the pressure on the affordable housing sector. Many households who are ineligible for social rented housing are forced into private renting or alternative forms of accommodation such as concealed households, where households have no choice but to live with other households.

In 2017, there were 4.5 million households renting in the private sector in Great Britain – an increase of 63% since 2007.

The impact of this growth has resulted in increases in private rents rendering these, in some areas, even more unaffordable than accessing owner occupation.

Unsurprisingly, Figure 2.3 highlights that the highest rents are experienced in London 13 LPAs have monthly median rents over £1,500, four of which are over £2,000 or more per month, more than double the national average of £770 per month.

Figure 2.3: Median Monthly Rent (March 2019)



Source: VOA Private Rental Market Statistics March 2019

It is not just the access to home ownership which has resulted in an increase in the demand for social rented housing. Increases in private rents also represent a significant contributing factor in the increased demand for social rented housing. Many people who previously would have accessed the private property market are

now unable to afford private rented prices in some areas, resulting in them falling into need for social housing. The impact of this has been increased demand for social housing, which has been constrained by a lack of supply and significant backlog need.

Diversification of housing choice

Planning policy in England, Wales and Scotland is clear that local communities should provide a range of different housing types and a variety of tenures from owner occupation to private rent, social housing and mid-market rentals. A broad range of housing choice in a community is important to ensure neighbourhoods are healthy, inclusive and sustainable.

Creation of mixed communities

There is no set definition provided by Government or government bodies of what actually constitutes a mixed community but through various publications and research, a broad understanding of a mixed community is one which is socially diverse and includes different age-groups, socio-economic groups, ethnic groups and household sizes⁶. A balanced community is one in which the social mixing creates a certain degree of social cohesion and social integration.

However, there is still a lack of clarity as to the precise and applicable definition of 'community' in terms of planning and how the implications of planning on communities should be assessed. Particularly how the geographic extent of a community should be measured; at a site level, neighbourhood or wider.

Planning policy has become a mechanism for local authorities to set targets for the delivery of affordable housing based on local evidence which assesses affordable housing need.

LPAs have sought to ensure the delivery of balanced and mixed communities through the promotion of tenure blind development, where affordable housing units are 'pepper potted' throughout private developments. This has changed more recently as Registered Providers have identified their desire to group affordable housing units within a development to allow more efficient and effective management of properties.



Affordable housing delivery

Affordable homes in Great Britain are brought forward through a number of methods, including:

1. Securing the delivery of affordable homes on site alongside private housing development through a Section 106 (England and Wales) and Section 75 (Scotland) of granting planning permission;
2. Delivery of affordable housing by housing associations and registered providers; and
3. Delivery of affordable homes by Councils on publicly owned land.

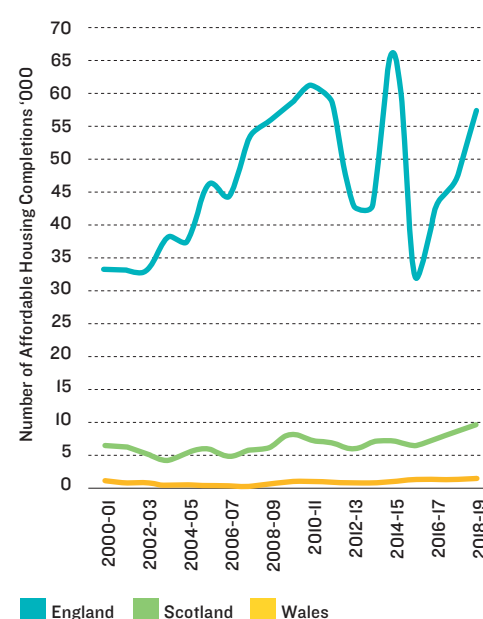
Affordable housing delivery in Great Britain has fluctuated significantly since 2000, with the exception of Wales where delivery has been more stable. There have been peaks in delivery in England in 2014/15 and 2018/19 in Scotland. Latest figures for 2018/19 show a positive increase, with c. 68,000 affordable homes delivered.

The majority of affordable homes are delivered as part of larger private sector developments. MHCLG data from 2018/19⁴ identifies that nearly half (49%) of all affordable homes delivered in England in 2018-19 were funded through Section 106 (nil grant) agreements up from 23% in 2014/15, likely to be an implication of the change from grant funding to developer contributions. The increase in the proportion of affordable houses delivered through Section 106 contributions was only in England. Scotland saw a reduction between 2014/15 and 2016/17 followed by a stabilisation at the lower end. Wales saw fluctuations in delivery, but overall there was a reduction.

This is largely as a consequence of a significant shift in planning policy away from grant funding towards requiring developers to include the delivery of affordable housing on site. This fundamental change caused a hiatus effect in delivery (a drop of around 50%) of affordable homes in England after 2014/15 as the requirement is translated into local policies which need to be satisfied to secure a planning permission.

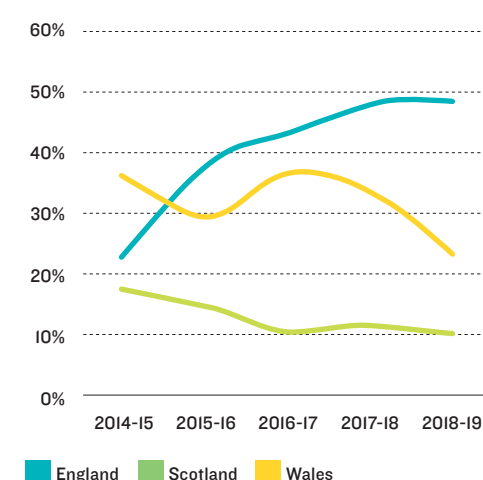
The policy requirement for affordable housing is that it is expected⁵ to be provided on-site but it could alternatively be delivered off-site by way of a financial contribution, where justified through robust evidence.

Figure 2.4: Affordable housing delivery



Source: MHCLG/Scottish Government Statistics/Welsh Government Statistics

Figure 2.5: Proportion of homes delivered through planning contributions



Source: England MHCLG Live Table 1011C/Scottish Government Housing Investment Affordable Housing Supply Programme/Statistics First Release SFR98/2019 / Lichfields Analysis

⁴ MHCLG Affordable Housing Supply April 2018 to March 2019 England https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/847661/Affordable_Housing_Supply_2018-19.pdf

⁵ Paragraph 62 NPPF

⁶ Manzi, 2010; Cole and Goodman 2000; Arthurs, Levin and Ziersch, 2015

03 Current planning policy



expect it to be met on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities

England

National Planning Policy Framework (2019)

The National Planning Policy Framework (NPPF) defines affordable housing as:

"Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)" (NPPF Annex 2 Glossary)

Affordable housing can take the form of⁷:

- Affordable housing for rent – 20% below local market rent in perpetuity;
- Starter homes;
- Discounted market sales housing – sold at a discount of at least 20% below local market value in perpetuity; and
- Other affordable routes to home ownership – includes shared ownership, relevant equity loans, low cost homes for sale and rent to buy.

The NPPF states that strategic policies should make sufficient provision for affordable housing and that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and

"expect it to be met on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities" (Paragraph 62).

The NPPF also requires major developments involving the provision of housing to deliver at least 10% of homes to be available for affordable home ownership (Paragraph 64).

Planning Practice Guidance

The Planning Practice Guidance (PPG) sets out that planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances.

Planning Policy Wales (2018)

In Wales, national planning policy is set out in the Welsh Government's Planning Policy Wales (PPW). PPW recognises the importance of providing affordable housing and of creating mixed communities, stating that where a planning authority considers a proposal does not contribute sufficiently toward the objective of creating mixed communities, the authority will need to negotiate a revision of the mix of housing or may refuse the application. PPW also states that affordable housing contributions will normally be provided on-site.

Technical Advice Note 2: Planning and Affordable Housing (2006)

Technical Advice Note 2 (TAN2) discusses affordable housing provision. It states that there is a *"strong presumption"* that affordable housing will be provided on the application site so that it contributes to the development of socially mixed communities. TAN 2 advises that development plans should set out the exceptional circumstances in which affordable housing may not need to be on-site (citing where management of the properties cannot be effectively secured) and states that in such instances, off-site provision of affordable housing or a financial contribution in lieu of on-site provision must contribute to the objective of providing affordable housing.

⁷ Annex 2 NPPF

Scotland

National Planning Framework 3 (2014)

Scotland's national planning policy is set out in the third National Planning Framework and sets out the long-term vision for development and investment across the Country. It states that the Scottish Government will work with the housing sector to ensure that there is a sufficient supply of affordable housing for both rent and ownership. The document makes no comment on the preferred delivery method of the housing e.g. on site, off site or mixed communities.

Scottish Planning Policy (2014)

Scottish Planning Policy (SPP) is a policy statement on how land use planning matters should be addressed across the Country. In regard to affordable housing it states that local development plans should set out the scale and distribution of the affordable housing in their area and support the creation of sustainable mixed communities. It states that a contribution of developments will be required for affordable housing and this should generally be a proportion of land within the development site.

Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits

Produced in 2010 the Planning Advice Note provides advice and further information on how the planning system can support the governments objectives to increase the supply of affordable housing throughout Scotland. It highlights as a general principle that on-site affordable housing provision will be expected to ensure the creation of sustainable mixed communities. It notes that there are exceptional cases where off-site provision and commuted sums may be acceptable. These may relate to a range of factors such as size of the site, location, topography, conversion of buildings where relevant standards cannot be met, and other local circumstances such as whether an appropriate tenure mix can be delivered.

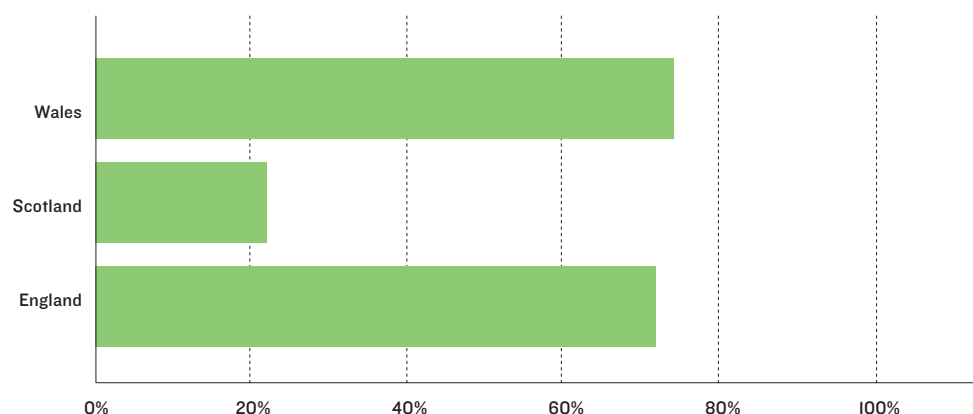


04 Development plan policy approach to off-site affordable housing

Lichfields has undertaken a review of the approach to affordable housing in development plans across Great Britain that have been adopted since 2012 (post-NPPF Plans in England). The analysis focused on the approach to off-site affordable housing in relation to housing developments which excluding policies related to rural exceptions or small site thresholds. The analysis focuses on LPAs and does not include plans for National Park authorities.

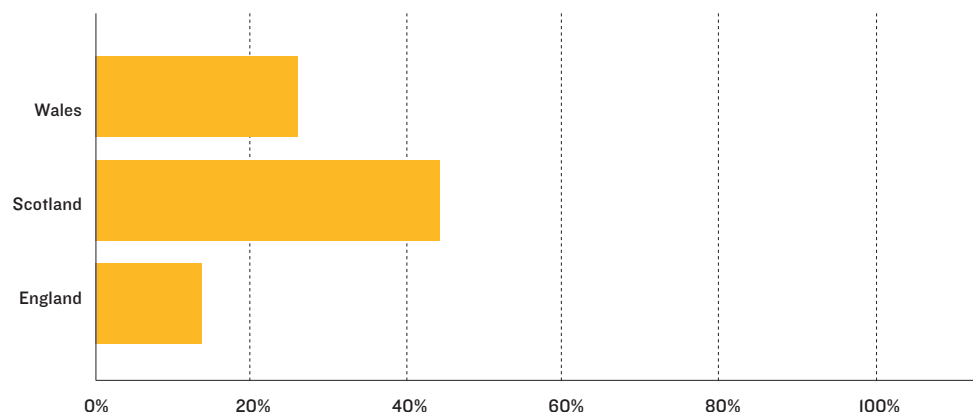
The analysis shows that 71% of authorities in England and 74% of Welsh authorities specifically set out their approach to off-site affordable housing provision within a development plan policy (Figure 4.1). In Scotland, 22% of development plans identify off-site affordable housing within a specific policy. These differences are influenced by the planning policy context at a national level.

Figure 4.1: Percentage of local authorities that reference off-site affordable housing provision in a Policy



Source: Lichfields analysis

Figure 4.2: Percentage of local authorities that reference off-site affordable housing provision supporting text/Supplementary Guidance (Scotland)



Source: Lichfields analysis

Fifty-two additional Plans refer to off-site affordable housing within the supporting policy text. In Scotland, off-site affordable housing provision is mentioned within Supplementary Guidance, which forms part of the development plan, but not within the wording of the policy itself (Figure 4.2). This approach is found in a greater proportion of LPAs in Scotland (44%), with lower proportions in England (14%) and Wales (26%). 100% of Welsh LPAs include a reference to off-site contributions; 85% of English LPAs and 66% of Scottish LPAs also make some sort of reference to off-site contributions.

Although references in supporting text are supportive of off-site provision in England and Wales, this approach should be considered in the context of a Court of Appeal judgement⁸ which provides clarity that no weight can be given to text in support of a policy:

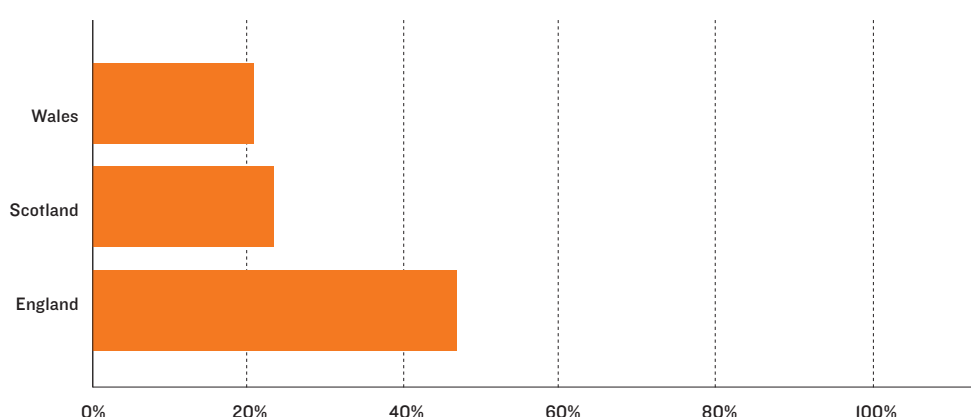
"The policy is what is contained in the box. The supporting text is an aid to the interpretation of the policy but is not itself policy. To treat as part of the policy what is said in the supporting text about a requirement to demonstrate need is to read too much into the policy. ... In my judgment paragraph 12.71 goes further than the policy and has no independent force when considering whether a development conforms with the Local Plan..." (paragraph 21)

As a consequence, less weight could be given to LPAs in England and Wales that rely on supporting text instead of specific reference to off-site affordable housing provision within the policy itself. It is therefore important that off-site contributions are enshrined in policy rather than just being part of the supporting text.

Of those LPAs where off-site affordable provision is mentioned in either a policy or the supporting text, almost half (47%) in England indicate that off-site provision will only be acceptable in "exceptional circumstances", suggesting a high bar must be met before this would be acceptable to the LPAs (Figure 4.3). This is a much higher threshold than set out in the NPPF which identifies two circumstances where off-site affordable housing is acceptable (NPPF paragraph 62). In Wales, 21% of LPAs require exceptional circumstances to be demonstrated before they will accept off-site provision, whilst in Scotland, the figure is 24%.

This analysis highlights that whilst on-site provision is the preferred approach to securing affordable housing delivery, there is broad geographical coverage of LPAs that provide for off-site affordable housing provision (Figure 4.4).

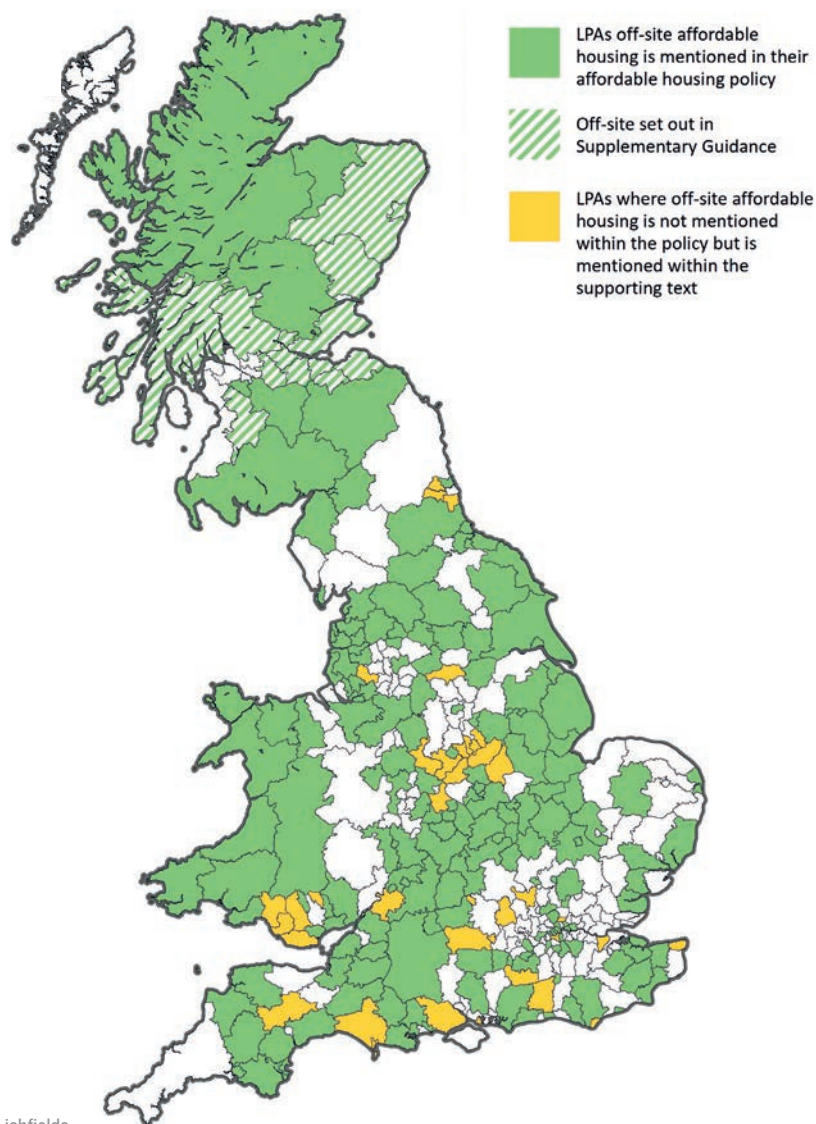
Figure 4.3: Percentage of local authorities that reference off-site provision but only in 'exceptional' circumstances



Source: Lichfields analysis

⁸ R (Cherkley Campaign Ltd) v Mole Valley District Council and Longshot Cherkley Court Ltd (2014) (EWCA Civ 567)

Figure 4.4: LPAs with post-2012 adopted development plans where off-site affordable housing provision is mentioned in a policy or supporting text/Supplementary Guidance (Scotland)



Source: Lichfields

There is also a broad distribution of LPAs which state that off-site contributions would only be acceptable in exceptional circumstances (Figure 4.5). However, there is a particular cluster in the South East and London, East and East Midlands.

This trend is likely to be a consequence of the housing market dynamics in the North, where LPAs can perhaps see the benefits of in-lieu contributions to maximise delivery and/or regenerate housing in other locations using off-site contributions, to support existing

regeneration programmes. This compares to LPAs in the South where land values and affordability issues are such that LPAs are keen to secure affordable housing on-site in order to address the need within local areas, rather than elsewhere.

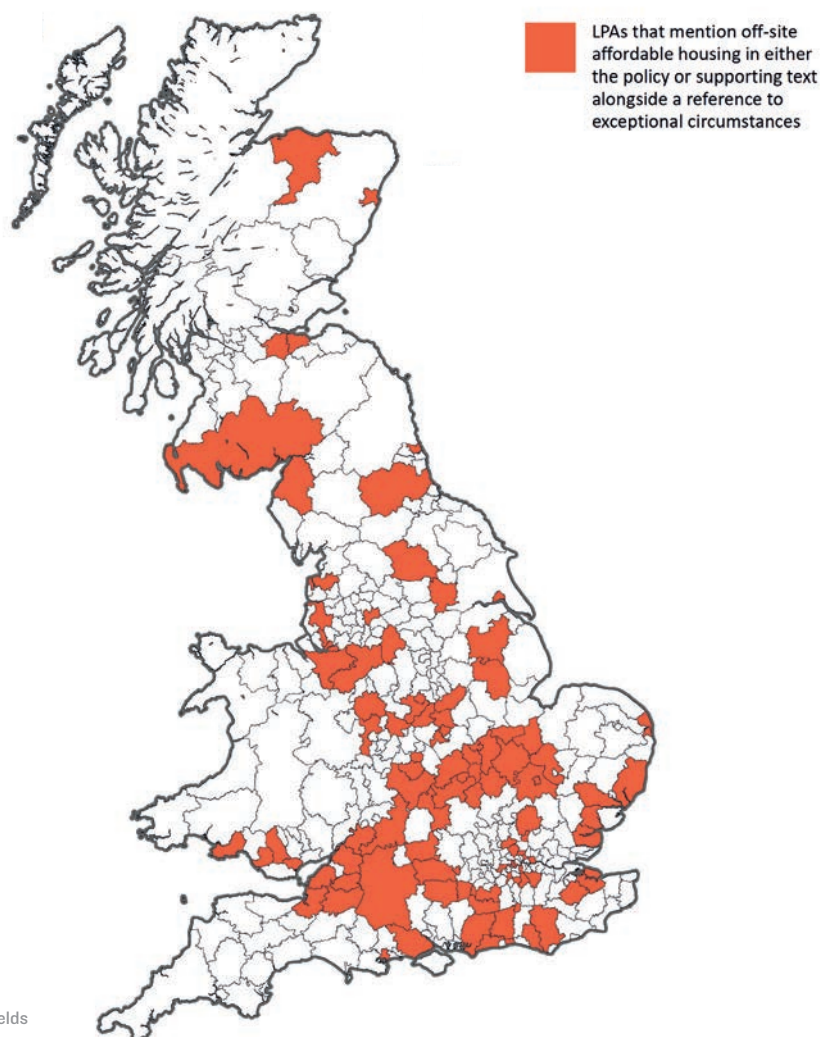
Despite planning policy driving the delivery of affordable housing on-site, our research and experience shows that over the last five years many LPAs across England, Scotland and Wales have accepted off-site housing contributions.

Table 4.1: Regional comparison

	Number of Development Plans with reference to 'exceptional'	LPAs with Off-Site Policy or reference in Supporting Text	%
East	18	23	78%
East Midlands	16	29	55%
London	12	17	71%
North East	1	9	11%
North West	7	23	30%
South East	20	34	59%
South West	8	28	29%
West Midlands	6	17	35%
Yorkshire and the Humber	3	14	21%
Scotland	5	7	71%
Wales	4	19	21%

Source: Lichfields

Figure 4.5: LPAs with post-2012 adopted local plans where off-site affordable housing may be considered in 'exceptional' circumstances



Source: Lichfields

05 The reality of delivering off-site affordable housing

In addition to our review of adopted development plans and their approach to delivering off-site affordable housing, Lichfields undertook a survey of Planning Policy/Forward Planning teams within LPAs. An online survey was circulated which sought to understand and explore issues in respect of the reality of delivering off-site affordable housing. A total of 21 LPAs responded to the online survey, of which eight were followed up with a further telephone discussion.

The findings of our research identified key factors which were considered as the most frequent primary drivers for an LPA accepting off-site provision and/or commuted sums when granting planning permission. These include:

1. Viability – 13 respondents;
2. Unsuitable scale or type of development for affordable home provision – 12 respondents stated this was a consideration;
3. The ability to deliver a greater number of affordable homes off-site compared to on-site – 12 respondents; and
4. The location of the site impacting upon the appropriateness of on-site affordable housing delivery, either because the area is a strong market or because there is already a large amount of affordable housing – 4 respondents.

The reasons highlighted reflect the nature of many policies and supporting text which set out circumstances in which off-site contributions may be acceptable.

Our research identified a number of benefits in respect of off-site affordable housing including:

1. Increased delivery of affordable housing compared to the provision of affordable homes on-site;
2. The ability to bring forward sites that are difficult to deliver;
3. The delivery of affordable homes in areas where there is a locally identified need;
4. The potential to secure a more balanced community by allowing off-site provision on sites where affordable need is greatest and there are imbalances between supply and demand;
5. Empowering LPAs to influence the delivery of affordable homes e.g. complete units to their satisfaction or support areas of wider housing regeneration; and
6. Preservation of listed buildings/ redevelopment in conservation areas.

It is important to highlight these benefits demonstrate off-site affordable housing should not be perceived as being a sub-optimal solution in terms of meeting housing needs.

Increased delivery

For many LPAs, a key benefit of accepting off-site contributions has been that the commuted sum has enabled the delivery of a larger number of affordable houses off-site than would be possible on-site. This was the most commonly identified benefit of accepting off-site contributions. This typically arises in LPAs where there is a wide range of land and property values across the LPA, meaning that contributions from developments in high value market areas may deliver a greater number of new affordable homes or be used to buy back properties in lower market areas and used to refurbish properties to make them habitable. Maximising the number of affordable homes delivered. However, the majority of LPAs who identified that off-site provision had been beneficial in this manner were unable to quantify the number of affordable homes that had been provided off-site than would have been delivered on-site.

Case study: Hartlepool Borough Council

Hartlepool's adopted Local Plan Policy HSG9 states:

"It is expected that affordable housing will be delivered through on-site provision and where appropriate, be pepper potted... However in certain circumstances it may be acceptable for provision to be made off-site, where:

1) Applicants can provide sound, robust evidence why the affordable housing cannot be incorporated on-site."

Hartlepool Borough Council has recently begun to use off-site affordable housing contributions to purchase former Right-to-Buy properties and homes which have come forward as part of new developments. Bringing empty homes back into use has been a notable benefit of accepting off-site contributions. The Council now has a total stock of around 300 properties.

The Council aspires to continue to grow the number of properties it owns. One of the other benefits of this approach is the generation of revenue funding through monthly rental income. Given the on-going squeeze on LPA budgets, the creation of an additional revenue provides an important source of income to prop up declining budgets and funding.

Unlocking site potential

Another significant benefit is the potential for commuted sums to contribute to the remediation of sites, allowing otherwise unviable previously developed land to be redeveloped. This is particularly relevant in LPAs where a large proportion of sites require upfront costs which will impact on the viability and deliverability of development.

This can maximise the potential development of brownfield land within urban areas. Ten LPAs identified this as a benefit of accepting off-site contributions. In areas where an industrial legacy has resulted in significant costs associated with bringing forward development on brownfield land, a greater focus on off-site provision means that contributions can be pooled from a number of developments to support successful regeneration and delivery of affordable housing on sites that might otherwise remain vacant.

Viability issues represent the main reason which drive developers to begin discussions with LPAs to consider an off-site affordable housing contribution and unlock existing sites.

The affordable housing policy in the emerging Local Plan acknowledges the viability challenge of delivering affordable homes on brownfield land. Although it still requires 30% affordable housing delivery on greenfield sites of 11 units or more, the draft policy requires a contribution of only 10% affordable housing on brownfield sites and only those in the more rural west of the Borough. The policy also highlights the value of off-site contributions, stating that the provision of affordable housing may vary on a site-by-site basis taking into account evidence of local need and where appropriate, the economic viability of the development. The policy identifies that affordable housing provision must be within the site unless the applicant has demonstrated insufficient local need exists or there would be overriding benefits of making alternative off-site provision, in which case a commuted sum will be required.

Where off-site contributions are accepted by the LPA through negotiation, the calculation of the contribution is set out within the Affordable Housing Policy of a Local Plan or an SPD. The financial contribution is expected to be equivalent to the financial value of on-site provision. However, a lower off-site contribution may be accepted where it is acknowledged delivery on-site is not viable.

In England and Wales, the requirement for viability to be assessed at the plan-making stage is likely to affect off-site delivery in the future. Development plan policies are expected to support delivery by being realistic and not containing requirements that are of such a scale that would make the plan undeliverable. Going forward, development plan policies may need to identify an off-site affordable housing contribution for allocated sites in order to acknowledge any issues which have been raised through the viability assessment and recognise that specific circumstances in respect of on-site delivery should not prevent affordable housing being delivered where off-site provision may otherwise be appropriate. Under this policy approach, there would be less scope for developers to rely on viability as a basis for exceptional circumstances following adoption of the plan.

Case study: St Helens

St Helens Local Plan states at Policy LPCo2:

"Any affordable housing provision must be within the application site unless the applicant has demonstrated either that a) insufficient local need exists to justify on site provision or b) there would be over-riding benefits by making alternative provision 'off-site' in which case a commuted sum in lieu of on-site provision will be required. The level of any such commuted sum should be in accordance with guidance set out in the Affordable Housing SPD."

St Helens has a large proportion of suitable housing sites which are affected by ground contamination as a result of its industrial legacy. Furthermore, the Local Plan policies seek to promote development of previously developed land. However, such sites can present viability issues and the 30% affordable housing target set out in the Local Plan may not be achievable.

In order to deal with these two identified issues, it has been acknowledged that financial contributions in lieu of on-site affordable housing provision can be an important source of funding to pay for remediation of land, including council-owned land, to support housing delivery, including that of affordable homes, across the LPA and support the development of brownfield land. However, the Council identified that finding sites on which to deliver off-site affordable housing can prove difficult.

This possible shift in approach to off-site affordable provision could help to change the views of LPA Officers and elected Members who consider off-site provision as somehow less acceptable compared to on-site provision.

The right type of housing in the right location

LPAs also identified that off-site contributions had allowed them to deliver more innovative or specialist affordable housing.

Accepting a financial contribution can provide a suitable alternative in cases where the type of affordable housing required does not align with the type of housing being developed. This may be the case on high density developments in areas where the identified affordable housing need is for larger affordable houses. It is clear from Lichfields' review of Local Plan policies that one of the recurrent themes within policies or the supporting text in terms of the consideration of off-site affordable housing is where it can be justified that providing off-site affordable homes better meets the needs of the local area and supports the creation of mixed and balanced communities.

Unsuitable location

A number of LPAs including Hartlepool and Warrington, highlighted that off-site contributions are usually sought for sites in locations where the delivery of affordable housing is not considered appropriate. These are often sites which are considered less suitable for affordable homes because of factors such as poor public transport links or local services which places greater reliance on owning a car, which may not be possible for those on lower incomes who are likely to be eligible for social housing. This can bring into question whether mixed communities are being achieved and comes back to the earlier point raised in the introduction to this research regarding the definition of a 'community' and the need for a better understanding of this particularly when considering planning implications. A mixed community may not be achieved in the development itself but would across a larger area or even the LPA.

It was often these circumstances which led to off-site provision helping to support LPA regeneration objectives and supporting improved housing quality and choice for lower income households in weaker housing market areas.

Case study: Hartlepool

In some high value market areas in Hartlepool, or on executive schemes, where there are poorer links to public transport and economic opportunities, off-site affordable housing is sought rather than delivering housing in areas where demand is low. Registered Providers have shown limited interest in affordable housing within an executive style development. In these circumstances, off-site contributions have gone towards the delivery of a greater number of affordable houses in a different location within the Borough, where demand and need is greater.

Better management

In order to create mixed and balanced communities, affordable properties are usually sought to be pepper-potted throughout a development. However, this presents a number of on-going management issues, sometimes making it harder to attract Registered Providers to become partners in delivery, compared to schemes where more affordable units are provided on a single site. The opportunity to facilitate better management and maintenance for Registered Providers by locating affordable housing on a single site was also identified by three LPAs as a benefit of accepting off-site contributions.

Diversifying the market

A number of LPAs stated that off-site contributions also helped facilitate a greater diversification of Registered Providers that are active in the market by enabling a wider range of Registered Providers to compete for the delivery of sites. This enables Registered Providers who focus on specialist accommodation to enter the market. Increasing the number of housing developers in the market has significant benefits in driving higher housing delivery across the country.

Enabling development

Looking beyond the supply of affordable housing, commuted sums and off-site provision can ensure the restoration of listed and historic buildings and the re-development of brownfield sites in conservation areas. The nature of these types of projects can result in viability issues, particularly in respect of a 'tenure blind' approach to affordable housing. The cost of a tenure blind approach in such projects can render schemes financially unviable, not just for the developer but also for the Registered Providers who ultimately go on to manage the properties. Commuted sums or off-site contributions provide a mechanism by which it could be possible to achieve a sympathetic and appropriate restoration and development of listed buildings and conservation areas. Whilst also achieving either units or funds in another location where the cost of development is not as high and/or of local/national significance.

This highlights the benefit that off-site contributions can have on the preservation of listed buildings but also highlights there are many reasons for choosing off-site contributions in addition to the obvious housing-related benefits.

The demand for a tenure blind approach and the cost of materials associated with creating high quality developments in a sensitive location can render projects unviable.

This also highlights the strict financial margins that Registered Providers need to work within regarding monthly rent and maintenance fees of developments.

Case study: Devon Place, Edinburgh

The construction cost of one house for this development was identified as £267,000. With a maximum subsidy of £40,000 available per unit, the shortfall of £227,000 would require the RP to charge a monthly rent of at least £1,100 in order to break even (assuming a 30-year mortgage at an interest rate of 4% per annum). Given that average social rents are around £270 pcm and Mid-Market Rents typically nearer £600 pcm, the break-even figure of £1,100 pcm could not be considered to be "affordable".

Furthermore, Registered Providers generally prefer affordable properties to be contained within a single stairwell or entire block, as this makes it easier to organise repairs and maintenance to communal areas. This goes against the 'pepper-potting' approach advocated in the creation for mixed communities.

The downsides of off-site affordable housing provision

Our research has identified a number of advantages in respect of off-site affordable housing provision. There are however, some issues associated with accepting off-site contributions including:

1. Overconcentration of affordable housing in one location and therefore a failure to support the creation of mixed communities;
2. Time lag between the development commencing and the LPA receiving funds;
3. Time lag between the LPA receiving funds and spending them;

4. Commuted sums of less value than the cost of development on-site, despite Plans seeking to ensure that there should be no financial benefit of off-site relative to on-site; and
5. Lack of transparency and accuracy in the monitoring of off-site contributions.

These are discussed in the following paragraphs.

Overconcentration of tenure type

Although using commuted sums to build or buy affordable properties within an identified area can support the delivery of a larger number of affordable homes, this can lead to a concentration of affordable properties in areas where the need for affordable housing is already being met. Overreliance on such an approach also limits the choice of location for those seeking affordable housing and does little to create mixed and balanced communities.

At the other end of the spectrum, in areas where off-site contributions are accepted instead of on-site delivery, the shortage of affordable housing may force lower income families to meet their housing needs outwith their local area and away from their support network of family and friends.

It may also result in concentrations of areas with just market houses. Whilst many buyers might be happy with this, it again goes against the creation of mixed communities.

Time lag between receiving and spending the commuted sums

Another issue highlighted through our research is the lag time associated with delivering affordable homes through the use of commuted sums. Delays can arise between the LPA receiving funds and the development commencing.

This may, in part, be as result of LPAs struggling to find suitable sites on which to spend the contributions and deliver

Case study: Sheffield

Historically, Sheffield's approach to delivering affordable housing was driven by the priority of delivering as much affordable housing as possible. Therefore, where an off-site contribution had been secured, this could often deliver up to 3 or 4 times more affordable dwellings than could be achieved on-site. More recently the strategic direction has changed back to a focus of on-site delivery as it was felt that when off-site contributions were used to buy-back existing stock, these would often be in already affordable market areas. This has resulted in concentrations of a particular house tenure in certain locations. There were concerns that this was not creating mixed communities or providing a choice of locations across the City.

affordable homes or where an LPA needs to acquire a site or bring forward different sites in public ownership. These issues were identified by North Tyneside and West Oxfordshire District Council. The PPG states that Section 106 agreements should include clauses stating when and how the funds will be used. Two of the LPAs Lichfields spoke to said that off-site contributions received in recent years had not contributed to delivery of affordable housing because the money had yet to be spent.

These findings are aligned with research undertaken by *Property Week*¹⁰, which identified that although local authorities collected at least £3bn as Section 106 payments between 2013 and 2018, only £1.3bn of this money had been spent to date. The research highlighted that although developers are typically entitled to recover their Section 106 payments if the money has not been spent in the agreed timeframe, this occurs relatively infrequently, with only £7.4m being refunded to developers between 2013 and 2018.

¹⁰ <https://www.propertyweek.com/news/councils-fail-to-spend-billions-of-s106-and-cil-money/5104453.article>

The evidence above correlates with that found in Scotland. Within Edinburgh since 2013, c.£4.4million has been received in commuted sums for affordable housing yet only c.£1.1 million has been spent to date. This represents approximately 75% of off-site affordable housing contributions that have yet to be utilised.

Failure to spend the contributions ultimately impacts on an LPA's duty to meet affordable needs and results in increased housing stress, particularly given that affordability is a key issue as a result of a lack of housing being delivered generally across the UK.

This may also be linked to the skills within an LPA in terms of delivering new homes given it has been a considerable period of time since LPAs have delivered new homes in large numbers.

From these findings, it is clear that although accepting off-site affordable housing contributions does facilitate delivery of affordable housing, there are various challenges which LPAs must overcome effectively. Securing delivery of off-site affordable provision should be considered a positive step towards meeting local needs. Our research highlights a number of valuable benefits of off-site affordable housing provision and has found that the negative perceptions tend to be linked to the use of funds by the LPA rather than the principle of off-site provision per se.

Value of off-site contributions

The actual value of off-site contributions which have been accepted vary depending on the guidance set out in Local Plans or SPDs which detail how off-site/commuted sums should be calculated. The negotiations to identify and agree the value of the off-site contribution take place through the Section 106 agreement (England and Wales) and Section 75 agreements (Scotland) processes.

The accepted value of commuted sums does appear to be lower than the value associated with on-site delivery of affordable units. This can be a complex area and could be a reason why commuted sums are not as widely utilised.

There are a number of reasons why these sums may be lower, most likely relating to viability considerations arising from site-specific factors and as a consequence of negotiations between an LPA and developer.

Monitoring off-site contributions

It is apparent that the details of how off-site affordable housing contributions have been spent varies between LPAs.

Alongside the actual commuted sum value, some LPAs in Scotland are able to attribute how and where the money had been spent to deliver affordable housing elsewhere across the LPA.

For LPAs in England and Wales, there is less clarity on the monitoring of off-site affordable housing payments and how and where these have been used to deliver affordable homes. This is perhaps a consequence of a different approach to delivering affordable homes. In Scotland off-site contributions are used for the delivery of new build affordable homes whereas in England some LPAs have used off-site contributions to purchase existing stock in their LPA. It may also be a consequence of how the off-site contributions are managed between the planning and strategic housing functions of an LPA. All LPAs in England are obliged to monitor delivery and expenditure from all S106 contributions.

The purchase of existing stock through off-site affordable housing contributions enables LPAs to increase their property portfolio which helps, in the first instance, to meet identified affordable needs, which in the longer-term, provides a revenue stream for the LPA. This has not necessarily had the success which was anticipated. In some cases, this approach has increased the provision of a particular type of affordable stock in areas where housing is already affordable but where there may be less demand, rather than help diversify housing choice elsewhere where there is a more limited supply of affordable housing. However, this approach is in its infancy and is likely to develop and become a strategic approach to affordable housing.

Findings and recommendations

Currently within the planning system off-site affordable housing contributions are often viewed negatively and suspiciously, potentially to the detriment of the creation of mixed communities. The evidence Lichfields set out in this report shows there are a high proportion of LPAs that have a specific policy which mentions off-site affordable housing provisions and a number of circumstances in which off-site provision can be appropriate and make a meaningful contribution to the supply of affordable housing, ultimately meeting the housing needs of residents.

In some circumstances, LPAs are willing to consider off-site affordable housing but on-site provision remains the priority for national policy across England and Wales, with many authorities requiring the demonstration of exceptional circumstances to justify such an approach to affordable housing provision. In Scotland, the approach is less prescriptive which is reflected in fewer LPAs having a specific policy which mentions off-site affordable provision. However, as the housing crisis continues and the need to increase housing delivery across Great Britain remains a key political priority, the failure to achieve identified housing requirements results in a continued shortfall of affordable housing. To address this problem, greater flexibility needs to be applied in the negotiation of planning obligations. This needs to look beyond on-site provision and consider off-site affordable provision in a more positive light.

It will be important for development plans to identify the need for off-site contributions for specific typologies which may result in a greater number identifying a specific policy in respect of off-site provision. This is a consequence of viability being assessed early in the plan-making process, which will result in developers/land promoters being much less able to use viability as a basis for exceptional circumstances later down the line.

Our research has highlighted a degree of ambiguity around the collection of commuted sums and the methods for monitoring the use of those sums. Some LPAs monitor

from collection to use in the construction of affordable housing units, whereas others simply amalgamate funds into one affordable housing fund. Amalgamation of off-site affordable housing contributions makes it difficult to understand the extent to which off-site provision/commuted sum on certain developments may have in fact been beneficial and appropriate.

In addition, there is the need for a greater transparency from LPAs in respect of where the commuted sums are actually spent. This is important to highlight value for money and also within individual developments whether the affordable provision has been subject to additional governmental funding, a particular issue in Scotland.

Recommendations

In order to improve the approach to off-site affordable housing provision as a means by which affordable housing delivery might be increased, we would make the following recommendations:

1. A more positive approach to off-site affordable housing should be set out within National Policy.
2. Raising awareness of Local Plan Inspectors to ensure that affordable housing policies in Plans do not set a higher bar than national policy without robust local justification.
3. LPAs should look more favourably on applications where on-site affordable housing is demonstrated as unviable, through the provision of specific evidence, to accept off-site contributions and the value they can make in the local market in respect of meeting identified housing needs.
4. Government should set out a standard approach to identifying the specific data which should be collected in respect of off-site/commuted sums for affordable housing. As part of this, the data should be made available as part

of Annual Monitoring Reports.

5. Alongside this, LPAs should be required to publish, annually, how many affordable homes have been delivered using off-site contributions and identify the issues which have impacted on delivery and set out a timetable for the delivery of the funds.
6. Development Plans should take a more strategic approach to off-site affordable housing – identifying sites where off-site would be preferable to on-site and identification of where the contributions would be spent. This would help guard against over-concentrations of certain tenures and achieve mixed communities.
7. Development Plan policies should seek to identify off-site affordable housing contributions for allocations which are affected by viability issues. This would help to shift thinking by elected Members and LPA Officers who consider off-site provision as less acceptable compared to on-site affordable housing delivery. This is also likely to encourage engagement of developers at the plan-making process which would encourage a clearer policy basis for off-site contributions.
8. Any consideration of off-site affordable housing contributions in development plans should be set out in policy rather than as part of supporting text.
9. A greater focus on using Section 106/Section 75 money to buy existing/new units rather than building them.
10. Consideration should be given to the allocation of publicly owned land as a receptor for housing funded through off site contributions.

The White Paper

The Planning White Paper, *Planning for the Future* was published in August 2020. In terms of the provision of affordable housing, the

White Paper reinforces on-site provision as the preferred route of delivery through a number of references. It includes the proposal to introduce a new Infrastructure Levy that will to replace the Community Infrastructure Levy and planning obligations, and it is anticipated that this will “*deliver at least as much – if not more-on-site affordable housing as at present*” (page 22).

It is anticipated that the introduction of a nationally set Infrastructure Levy and allowing LPAs greater powers to determine how developer contributions will drive up on-site affordable housing delivery. However, widening the Infrastructure Levy to include affordable housing provision could result in greater pressures upon the scope of what the Levy will be able to achieve and may lead to difficult decisions as to the priorities for delivery under the Levy. Setting the Infrastructure Levy at a national level risks the level at which it is set being unable to secure the funding required to support affordable housing delivery alongside the other infrastructure requirements which have been identified. This could in particular impact on low value areas where land may fall below the threshold where the Infrastructure Levy would be applied, potentially resulting in no (on- or off-site) affordable housing coming forwards. The fulfilment of the aim to increase affordable housing delivery ultimately depends on the extent to which it is possible to work out the basis by which in kind provision can be offset against the levy.

Despite the White Paper suggesting that some of the levy may need to be ring-fenced for the delivery of affordable housing, this would obviously be left to each LPA to set and balance with other local priorities which would need to be covered by the levy.

It is difficult to know at this stage how the White Paper will evolve given the initial consultation period has only recently closed. However, it will be interesting to observe how the proposal of an Infrastructure Levy is received and if brought forward through legislation, how it will impact on the delivery of affordable housing in the future.

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