

East Ayrshire Local Development Plan 2  
Draft Supplementary Guidance  
Affordable Housing

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## 1. Introduction & Purpose

- 1.1. The purpose of this Supplementary Guidance is to provide detail on how the Council will implement its LDP2 affordable housing policy as set out in the East Ayrshire Local Development Plan 2.

## 2. LDP Policy RES2: Affordable Housing

- 2.1. In line with the Scottish Government's Planning Advice Note 2/2010 Affordable Housing and Housing Land Audits and the Draft National Planning Framework 4 (NPF4) the Council intends that the affordable housing policy will be implemented in a flexible manner taking full account of wider financial and market conditions. The following contributions will apply:

**The Council will require the provision of affordable housing:**

- (i) on those sites specifically identified and reserved for such purposes on the LDP maps;
- (ii) on all sites of **30** or more houses proposed in the Kilmarnock & Loudoun sub housing market area (see Figure 1 below). Within such developments, **25%** of houses will require to be affordable in nature. However, a higher contribution might be sought within the Kilmarnock & Loudoun sub housing market area where it is justified by evidence of need.

**Note 1:** Early discussion with the Council's Planning and Housing Services will be required to establish the most appropriate mix of affordable housing to be provided. Affordable Housing can cover a wide range of end users including families, older and ambulant people with disabilities, and young people that are vulnerable.

**Note 2:** If a new planning application is submitted which would increase the overall capacity of a site, the additional units only would be required to meet the terms of this policy. Where a new application relates to amendments which would not affect overall capacity, for example, changes to layout or house types, the terms of the policy would not apply.

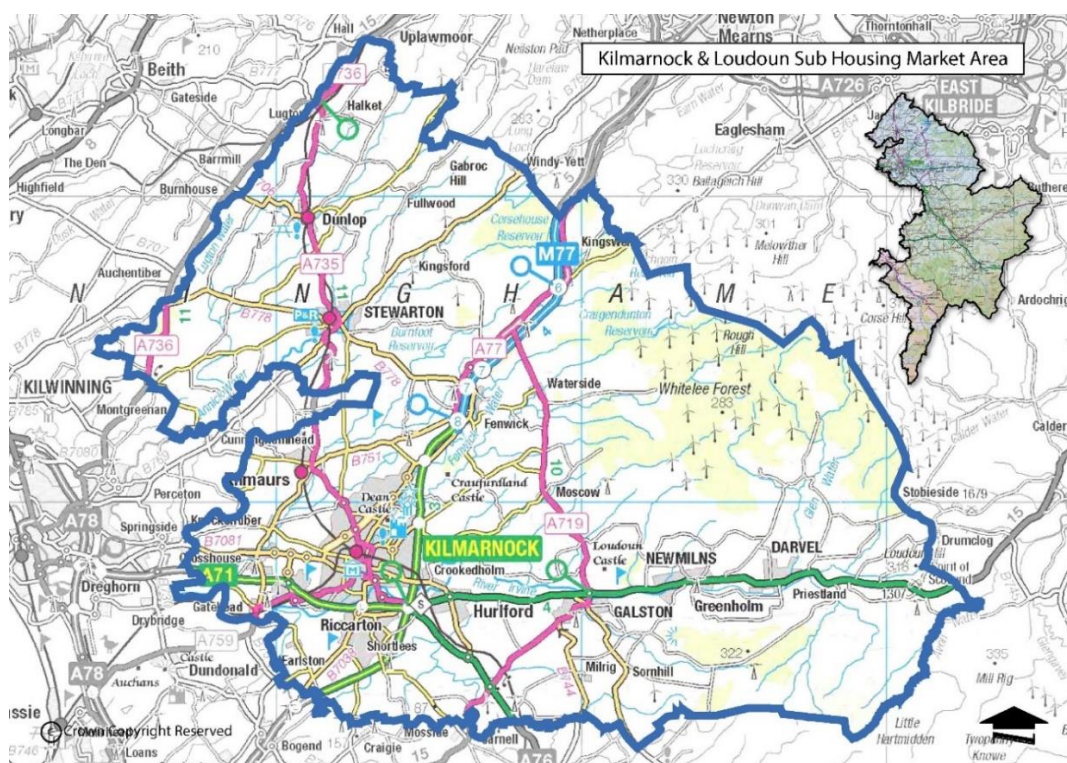


Figure 1. Kilmarnock & Loudoun Sub-Housing Market Area

- 2.2. For clarification, **Policy RES2 is mandatory** and will apply to all new residential developments of 30 or more houses in the relevant Sub-HMA, including windfall sites. Although the affordable policy cannot be applied retrospectively, it will be applied to any reapplication or renewal of planning consent where an existing consent has lapsed.

### 3. Additional Affordable Housing Need (Higher Requirement)

- 3.1. In line with Draft NPF4, a higher affordable housing requirement for the Kilmarnock & Loudoun Sub HMA may be sought in certain cases where it is justified by evidence of need. This need will be determined on a case-by-case basis and on the basis of Council/RSL waiting lists and the ability of a particular settlement to sustainably accommodate development within its boundaries. For example, this might apply in such cases where a high demand for affordable housing exists within a settlement but the Council or RSL does not own or is unable to purchase sufficient land in that location to address that demand.

### 4. Affordable Housing Need in East Ayrshire

- 4.1. Whilst East Ayrshire has lower than national average house prices, it also has lower than average income levels and a significant proportion of households cannot access housing at an affordable level, particularly in the more pressured areas in the Kilmarnock & Loudoun part of the local authority area.
- 4.2. The Council's Housing Need and Demand Assessment (HNDA) was given robust and credible status by the Scottish Government in 2018. It concluded that the annual shortfall of affordable housing arising in East Ayrshire ranges is around 234 units. Evidence of affordable house completions and the Council-prepared Strategic Housing Investment Plan (SHIP) indicate that the bulk of this requirement lies within the Kilmarnock and Loudoun Sub Housing Market Area, with some demand in the Cumnock Sub HMA and very limited demand in the Doon Valley Sub HMA. It is anticipated that any demand in the Cumnock Sub HMA and Doon Valley Sub HMA will be met through direct Council/RSL provision; no private development proportion will therefore be required.
- 4.3. LDP sets an affordable housing supply target of 108 new build units per year (or 1,080 over the Local Development Plan (LDP) period) to be delivered by a variety of means; one of which is Policy RES2 Affordable Housing. In order to help achieve this target, it is considered appropriate that the LDP contains an affordable housing policy, requiring developers to provide a proportion of affordable housing as part of their developments. This means that more people on lower incomes will be able to access suitable housing.
- 4.4. The Council's preference is that affordable housing will be delivered on site. However, where it can be conclusively demonstrated that this is not possible or feasible, off site provision may be considered acceptable. A commuted sum payment will be accepted only where all appropriate on and off-site possibilities have been explored and full justification for them being discounted is provided.
- 4.5. Early discussion with the Council's Planning and Housing Services will be required to establish the most appropriate mix of affordable housing to be provided. Affordable Housing can cover a wide range of end users including families, older people, people with physical and learning disabilities and young care experienced people.

- 4.6. If a new planning application is submitted which would increase the overall capacity of a site, the additional units only would be required to meet the terms of Policy RES2. Where a new application relates to amendments which would not affect overall capacity, for example, changes to layout or house types, the terms of the policy would not apply.

## 5. Preferred Type of Provision in East Ayrshire

- 5.1. The Council's first preference is for the provision of social rented accommodation provided on site by the Council or a RSL. However, if this is not possible within the necessary development timescales or if public subsidy is not available then alternative appropriate types listed above, which are suitable to the local needs, will be considered.

## 6. Affordable Housing Supply in East Ayrshire

- 6.1. The LDP contains a Housing Supply Target (HST) of 108 new build affordable homes per annum (1,080 over the plan period). To this is added a **30%** generosity allowance to produce a Minimum All-Tenure Housing Land Requirement (MATHLR/HLR) of 1410 units. A total indicative supply of **1,718** affordable units is calculated, made up from the sources set out in Table 1 below. The capacity provided both through LDP allocations and *potential* windfall development gives comfort that the supply will remain generous even should output from some of the sources fall short. These amounts are a target and each development will be negotiated on a site-by-site basis with the Council taking a flexible approach to implementation of the policy.

East Ayrshire Housing Market Area	
Ten Year Supply	Units
LDP-allocated affordable housing sites (SHIP sites)	258
Potential units on allocated sites arising from SHIP and new LDP affordable housing policy	1119
Affordable units arising from windfall sites	341
<b>TOTAL SUPPLY</b>	<b>1718</b>
Ten Year Requirement	Units
Minimum All-Tenure Housing Land Requirement (MATHLR/HLR)	1410
<b>TOTAL REQUIREMENT</b>	<b>1410</b>
<b>SURPLUS</b>	<b>308</b>

Table 1. Affordable Housing Supply in East Ayrshire Housing Market Area

## 7. Types of Affordable Housing

- 7.1. It should be noted that the term 'affordable housing' encompasses a wide range of types of housing. Those sites that are progressed by the Council or Registered Social Landlords (RSLs) will generally include a mix of house types for a range of end users ranging from families, older people, people with physical and learning disabilities and young care experienced people. The determination of required house types and end users is taken on a site by site basis depending on the location of the site and the demand being experienced at that particular time by both the Council's Housing and Social Services.
- 7.2. Planning Advice Note 2/2010 sets out the range of tenure types that can contribute to affordable housing.

**Social rented** - Housing provided at an affordable rent and let using a Scottish Secure Tenancy or Short Scottish Secure Tenancy and usually managed locally by the Council, a Registered Social Landlord (RSL) or other housing body regulated by the Scottish Housing Regulator.

**Subsidised low cost housing for sale** - A subsidised dwelling sold at an affordable level (as determined by the HNDA). Discounted serviced plots for self-build can contribute and a legal agreement can be used to ensure that subsequent purchasers are also eligible buyers (as defined in the LHS and outlined in Section 14 below) and that the property remains affordable e.g. a burden is placed on the title to state that the property is sold at a proportion of the market value.

**Shared ownership** - The owner purchases part of the dwelling and pays rent under an occupancy agreement to an RSL or the Council on the remainder.

**Low cost Initiative for First Time Buyers (LIFT)** - The owner purchases the majority share of the dwelling and with the remaining stake held by an RSL, the Council or Scottish Government under a shared equity agreement.

**Entry level housing for sale** - A dwelling without public subsidy sold at an affordable level. This 'affordable' level is the lower quartile house price figure as set out in the HNDA and is currently £66,625 in the Kilmarnock and Loudoun Sub HMA. Conditions may or may not be attached to the missives in order to maintain the house as an affordable unit to subsequent purchasers.

**Shared Equity** - The owner pays for the majority share in the property with the remaining stake held by a developer. The price paid by the owner is again informed by the HNDA.

**Mid-Market or intermediate rent** - Private rented accommodation available at rents below market rent levels but above the local housing allowance for the area.

## 8. Delivering Affordable Housing in East Ayrshire

8.1. Key to the success of delivering affordable housing is early discussions and agreement of affordable housing provision between the Council as Strategic Housing Authority and developers. At these discussions the type and mix of affordable housing in relation to local need can be discussed as can the availability of public subsidy. This is set out in more detail below. Engagement with the Council at an early stage could also result in sites being included in the Local Authority-prepared SHIP which is currently reviewed and is submitted to the Scottish Government every year. In order to secure public subsidy from the Scottish Government for an affordable housing development, it must be included in the Local Authority approved SHIP.

8.2. As is stated in the affordable housing LDP policy, the Council will adopt a sequential approach to the method of delivery of affordable housing as follows:

- On-site provision;
- Off-site provision;
- Commuted sum payment

## 9. On-Site Provision

9.1. The Council's preferred method for delivery of affordable housing is on-site provision in the form of an appropriate area of serviced land being transferred to the Council or a RSL for development of the required number of completed housing units. The Council will use the findings of the HNDA and any updated needs information to determine the tenure and type of units to be provided in accordance with known demand. Affordable housing can be provided to meet a wide range of users including families, single people, older people, people with physical and learning

disabilities and young care experienced people. Alternatively, units can be completed by the developer and subsequently transferred to the Council/RSL on a design and build basis. Such units must also comply with the Scottish Government's grant funding criteria in terms of their design standards.

- 9.2. Should on-site provision be determined to be the appropriate method for the delivery of affordable housing, agreement with the Council should be reached and the timescales/phasing of the completion of dwellings should be agreed. Where land is being transferred, it should be provided fully serviced and free of constraints at an appropriate end-use value or at a lower agreed value. In the case of a dispute over land value, the District Valuer or an independent qualified surveyor with good working knowledge of the local area will determine the appropriate price.
- 9.3. Affordable housing should be fully integrated in design and layout terms with the market housing. Design principles are covered later in this section.
- 9.4. Where no public subsidy is available and it has been agreed by all parties that on-site unsubsidised affordable housing will be provided, negotiation between the Council and the developer will take place in order to determine whether units provided will be low cost for sale or shared equity. These units may require a burden to be placed on their title to ensure that future sales are made to priority groups at an affordable cost. Each site will be considered individually and on its own merits.

## **10. Off-Site Provision (Alternative Site)**

- 10.1. Where it can be conclusively demonstrated to the satisfaction of the Council that on site provision is not possible, an alternative suitable site under the control of the developer may be considered. As a minimum, the area provided on the alternative site and the number of affordable units must be equivalent to that which was required on-site, in addition to any specific affordable housing requirement that might be required on the alternative site itself under policy RES2. Timescales for delivery must be agreed with the Council.
- 10.2. The alternative site will require to be located within the same Sub Housing Market Area and should be suitable for the provision of affordable housing, meet with all other relevant LDP policies and should not be subject to any land ownership or infrastructure constraints. The units must also comply with the Scottish Government's grant funding criteria in terms of their design standards.

## **11. Off-Site Provision (Commuted Sums)**

- 11.1. Only in exceptional circumstances where it can be demonstrated sites are unsuitable for affordable housing, for example because of site constraints affecting development viability and where all reasonable efforts to identify other opportunities for on or off-site provision have been exhausted, the Council will accept a commuted payment from the developer.
- 11.2. Commuted payments must be paid by the developer either in advance of planning consent being issued or at appropriate phases of the site's construction period, as agreed through a Section 75 Agreement (or Section 69 agreement under the Local Government Act).
- 11.3. The value of the commuted sums will be determined independently by the District Valuer or a chartered valuation surveyor suitably experienced in the type of property and locality and



appointed by mutual agreement between the parties with all valuation fees being shared equally between the Council and the applicant.

11.4. In line with PAN 2/2010, commuted sum payments will be of a value equivalent to the cost of providing the percentage of serviced land required by policy RES2.

11.5. Commuted sums received by the Council will be reinvested in the provision of affordable housing within the relevant sub Housing Market Area. Payments will be used to fund or part fund:

Council house developments;

- o Financial assistance to RSLs to assist in funding the purchase of land and the development of affordable homes

11.6. Responsibility for the processing of commuted sums lies with the Council's Development Planning, Estates and Housing sections; applicants are encouraged to enter early discussions with the Development Planning section to discuss their proposals.

11.7. Where development does not proceed within expected timescales, there may be a requirement for the level of commuted sum to be revisited. Please note that all valuation fees will be shared equally between the Council and the applicant. Recent experience of such valuation exercises at the time of writing is that the cost of valuation is around £3,000 before being shared. Developers should take these costs into account when requesting consideration of a commuted sum payment.

## **12. Pre-Application Discussions on Affordable Housing**

12.1. Developers are required to arrange a pre-application meeting with the following Council officers, or their nominated delegated officers:

- o Strategic lead - Housing and Environment Services
- o Local Housing Strategy officer – Housing Services
- o Development and Strategy officer – Housing Services
- o Principal Planning Officer (Local Development Plans) – Planning Service
- o Development Management officer – Planning Service

12.2. At this meeting the following matters can be discussed and considered:

- o Method of delivery (on-site/off-site)
- o Location and timing of affordable housing to be delivered
- o Number, type, mix and tenure of units required in locality (using HNDA as a basis)
- o Technical aspects of planning application including potential Section 75 Agreements
- o Site design requirements
- o Availability of public subsidy and potential RSL involvement where appropriate
- o Any independent valuation work that may be required

## **13. Section 75 Obligations**



- 13.1. The Council's preferred method of delivery will be through the use of a Section 75 Legal Agreement. In exceptional circumstances other mechanisms may be used to secure affordable housing. This includes when a developer has legally agreed to enter into a contract with a Registered Social Landlord (RSL) prior to the determination of the planning application.
- 13.2. Landowners and developers will not be permitted to avoid the terms of this policy by artificial sub-division of landholdings since the terms of the Section 75 Agreement will be made binding on successive proprietors. Agreements will require the transfer of land, erection of dwellings or financial payments for affordable housing purposes to be completed to a similar time scale to the non-affordable housing unless otherwise agreed with the Planning Authority.
- 13.3. Where an affordable housing contribution is to be provided, the developer will, where appropriate, be required to enter into a Section 75 Obligation under the Town and Country Planning (Scotland) Act 1997 (as amended) which will set out the necessary affordable housing contribution and detail the arrangements for its delivery.
- 13.4. Where a Section 75 obligation is required the Council will seek to control:
- the extent of the land that is to be conveyed;
  - if an RSL is involved, its identity;
  - the level of service provision;
  - the use to which the serviced land can be put i.e. affordable housing;
  - the timing of the transfer of the serviced land or, as the case may be, land and completed units;
  - the category (or tenure) of affordable housing completed;
  - if completed units are to be provided, the type of housing required with any marketing requirements
  - if a developer financial contribution is to be paid, the amount and phasing of the payment;
  - The time period within which any developer financial contribution will be repaid should the Council not use all or part of it.
- 13.5. The type of housing (in terms of design and location) that is eventually delivered on the affordable housing land will be controlled through planning conditions.
- 13.6. It is anticipated that a Section 75 Obligation will normally be required for all applications where affordable housing forms part of the proposal. In the case of developer financial contributions Section 69 agreements under the Local Government (Scotland) Act 1973 may be the preferred legal instrument when the developer agrees to make full payment prior to planning permission being issued.

## 14. Eligibility (Priority Groups)

- 14.1. Priority groups will be determined by the Council in accordance with the Common Allocation Policy. Priority will be given to applicants who are on the East Ayrshire Common Housing Register, however, the following groups (2, 3 & 4) who have been identified as those in housing need in the HNDA may also be considered for affordable housing:
1. Applicants on the Common Housing Register
  2. Existing Council/RSL tenants

3. Local first time buyers
4. People on low incomes

14.2. The list represents a sequential consideration of priority groups but the choice of those eligible to access new houses at a particular site will be a matter for resolution at the time of negotiation.

## 15. Marketing & Identification of Priority Client Groups

15.1. Where the affordable housing proposed is unsubsidised or discounted, there will be further requirements in terms of the marketing of the affordable housing and the identification of the priority client groups. Developers will require to provide evidence of how they intend to market affordable homes to those who are eligible. Marketing proposals, where applicable, must be submitted to the Council for consideration.

## 16. Design Principles

- 16.1. Affordable housing, like all other residential development, will require to meet with the principles set out in Designing Streets which forms national policy as well as all Council design policies and supplementary guidance.
- 16.2. Developers should ensure that the affordable units are arranged in small groups as agreed with the Council or relevant RSL to ensure efficient management of properties. This should be agreed at pre-application discussions. Pepper potting affordable properties throughout the development is not generally acceptable where the Council or RSL will manage the properties. However, this may be acceptable where affordable properties are to be sold.
- 16.3. Affordable properties should be of a similar design and style to the market element of the development. Whilst it is recognised that affordable house types may differ in size and type, it must integrate visually and physically to the rest of the development using the same materials. The type of houses to be provided must respond to demand information supplied by the Council.
- 16.4. Where a development requires a master plan and has an affordable housing requirement attached to it, the master plan will require to show where the affordable housing element is to be located and how this will integrate successfully with the mainstream market housing.
- 16.5. The units must also comply with the Scottish Government's grant funding criteria in terms of their design standards.

## 17. Useful Contacts

### Planning Policy Section

01563 576790

[localdevelopmentplans@east-ayrshire.gov.uk](mailto:localdevelopmentplans@east-ayrshire.gov.uk)

### Development Management Section

01563 576790

[submittoplanning@east-ayrshire.gov.uk](mailto:submittoplanning@east-ayrshire.gov.uk)