

Housing, Homelessness and Fair Work Committee

10.00am, Tuesday 5 December 2023

Affordable Housing Commuted Sums – referral from the Planning Committee

Executive/routine
Wards
Council Commitments

1. For Decision/Action

- 1.1 The Planning Committee has referred a report on the Affordable Housing Commuted Sums to the Housing, Homelessness and Fair Work Committee for information.

Dr Deborah Smart

Executive Director of Corporate Services

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Referral Report

Affordable Housing Policy Update 2023 – referral from the Planning Committee

2. Terms of Referral

2.1 On 15 November 2023, the Planning Committee considered a report which provided an update on commuted sums being used in lieu of onsite affordable housing and how they were used to build affordable homes in Edinburgh.

2.2 The Planning Committee agreed:

Motion

- 1) To agree to discharge the motion approved by Planning Committee on 14 June.
- 2) To note that onsite affordable housing was required for applications of 20 homes or more and officers continued to advise on measures that may help to enable onsite affordable housing.
- 3) To note that 451 social rented homes were completed in 2022/23. However, the combination of low rents, limited grant funding and limited private borrowing for social rent does mean that in some higher cost developments, social rented homes may not always be practical.

- moved by Councillor Dalgleish, seconded by Councillor Cameron

Amendment

- 1) To note that onsite affordable housing was required for applications of 20 homes or more and officers continued to advise on measures that may help to enable onsite affordable housing.
- 2) To note that 451 social rented homes were completed in 2022/23. However, the combination of low rents, limited grant funding and limited private borrowing for social rent does mean that in some higher cost developments, social rented homes may not always be practical.
- 3) To note the Council's recent declaration of a housing emergency; and to note that a key barrier to the delivery of more social rented homes is insufficient grant funding from the Scottish Government; notes that additional barriers include Brexit-related workforce pressures, construction sector inflation and

other challenges facing the construction pipeline of affordable homes in the city, and notes that the Council Leader was writing to Scottish Ministers to highlight this and press for increased funding.

- 4) To note the decision of Committee on 14 June 2023 that reports presented to Committee as part of the preparation of guidance once City Plan 2030 had been approved should include consideration of focussing affordable housing policy on tenures which best delivered affordable rented accommodation, and agreed to add this action to the Committee's rolling action log.
- 5) To agree, at the latest, as part of the next report on the Affordable Housing Policy Update due in Autumn 2024 that options would be presented to maximise the effective use of commuted sums, including, but not limited to, exploring the potential to use some of the commuted sums fund to bring existing empty affordable homes back into use; and an overview of the calculation methodology and process utilised in determining commuted sums in collaboration with the Royal Institute of Chartered Surveyors Scotland.
- 6) To refer the report to Housing, Homelessness and Fair Work Committee for information.
- 7) To agree to discharge the motion approved by Planning Committee on the 14 June 2023.

- moved by Councillor Booth, seconded by Councillor Staniforth

In accordance with Standing Order 22(13), the amendment was adjusted and accepted as an amendment to the motion.

Decision

To approve the following adjusted motion by Councillor Dalglish:

- 1) To note that onsite affordable housing was required for applications of 20 homes or more and officers continued to advise on measures that may help to enable onsite affordable housing.
- 2) To note that 451 social rented homes were completed in 2022/23. However, the combination of low rents, limited grant funding and limited private borrowing for social rent does mean that in some higher cost developments, social rented homes may not always be practical.
- 3) To note the Council's recent declaration of a housing emergency; and to note that a key barrier to the delivery of more social rented homes is insufficient grant funding from the Scottish Government; notes that additional barriers include Brexit-related workforce pressures, construction sector inflation and other challenges facing the construction pipeline of affordable homes in the city, and notes that the Council Leader was writing to Scottish Ministers to highlight this and press for increased funding.
- 4) To note the decision of Committee on 14 June 2023 that reports presented to Committee as part of the preparation of guidance once City Plan 2030 had

been approved should include consideration of focussing affordable housing policy on tenures which best delivered affordable rented accommodation, and agreed to add this action to the Committee's rolling action log.

- 5) To agree, at the latest, as part of the next report on the Affordable Housing Policy Update due in Autumn 2024 that options would be presented to maximise the effective use of commuted sums, including, but not limited to, exploring the potential to use some of the commuted sums fund to bring existing empty affordable homes back into use; and an overview of the calculation methodology and process utilised in determining commuted sums in collaboration with the Royal Institute of Chartered Surveyors Scotland.
- 6) To refer the report to Housing, Homelessness and Fair Work Committee for information.
- 7) To agree to discharge the motion approved by Planning Committee on the 14 June 2023.
- 8) To ask Officers to check how many Affordable Housing Commuted sums were received and used came from the immediate ward.
- 9) To include the length of time, barriers faced, and other ways of delivering affordable housing in the next report to Planning Committee.

3. Background Reading/ External References

- 3.1 Minute of the Planning Committee – 15 November 2023
- 3.2 [Planning Committee – 15 November 2023 – Webcast](#)

4. Appendices

Appendix 1 – Report by the Executive Director of Place

Planning Committee

2.00pm, Wednesday, 15 November 2023

Affordable Housing Commuted Sums

1. Recommendations

- 1.1 It is recommended that Planning Committee:
 - 1.1.1 Agrees to discharge the motion approved by Planning Committee on [14 June 2023](#) to report back in two cycles on the use of commuted sums to deliver affordable homes;
 - 1.1.2 Notes that onsite affordable housing is required for applications of 20 homes or more and officers continue to advise on measures that may help to enable onsite affordable housing; and
 - 1.1.3 Notes that 451 social rented homes completed in 2022/23. However, the combination of low rents, limited grant funding and limited private borrowing for social rent does mean that in some higher cost developments, social rented homes may not always be practical.

Paul Lawrence

Executive Director of Place

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Planning Committee

Affordable Housing Commuted Sums

2. Executive Summary

- 2.1 Over the last three years, onsite affordable housing was secured for 85% of applications of 20 homes or more. However, there are specific situations when a commuted sum may be acceptable in lieu of onsite affordable housing.
- 2.2 In the last five years, £2.818 million of commuted sums funding has been used to support the development of 675 new affordable homes at 12 locations in Edinburgh. The Affordable Housing Policy (AHP) directly enabled almost 2,500 affordable homes, delivered on site, and completed during the same period.
- 2.3 All sums have been paid out within the timescales (10 years from the date the payment is received by the Council) set out in the Section 75 Legal Agreement as part of the planning consent process.

3. Background

- 3.1 [Affordable Housing guidance](#) was approved by Planning Committee on 3 December 2015, as part of “Developer Contributions and Affordable Housing”. The Affordable Housing guidance was approved as a [stand-alone document](#) on 30 March 2017, and subsequent updates have been approved through the “Annual Updates to Planning Guidance” reports. The last [updates](#) to Affordable Housing guidance were approved by Planning Committee on 3 February 2021 and are included in the current published guidance.
- 3.2 On 14 June 2023, Planning Committee considered the recommendations of the report [“Affordable Housing Policy Update 2023”](#). The following motion was approved. This report seeks to discharge the motion.
- 3.3 Delete recommendations and insert: “Planning Committee:
 - 3.3.1 To note the extremely challenging circumstances for delivery of affordable homes, through the war in Ukraine, Brexit and a number of other factors leading to significant increases in prices and added pressure to the sector, as set out in the report by the Executive Director of Place.

- 3.3.2 To note that the Affordable Housing Policy (AHP) was nonetheless consistently delivering onsite affordable homes for more than 85% of sites of 20 homes or more.
- 3.3.3 To note that almost 1,050 new affordable homes were completed through 2021/22 and 2022/23 and almost 1,000 new affordable homes were approved on sites secured through the AHP.
- 3.3.4 To note the use of commuted sums, as set out in paragraph 4.16 of the report by the Executive Director of Place, to support delivery of 216 new affordable homes on three sites, and to further note that only around one fifth of the £2.662 million received in commuted sums over 2021-23 was used to support the delivery of affordable homes; and further notes that the report set out that there would be “ample opportunities” to allocate these commuted sums.
- 3.3.5 To agree to receive a detailed report within two cycles on the use of commuted sums to deliver affordable homes, and that this report would include, but not be limited to, the following:
 - 3.3.5.1 In what circumstances commuted sums were considered a reasonable alternative to on-site affordable housing;
 - 3.3.5.2 A detailed breakdown of the use to which commuted sums had been used over the last five years;
 - 3.3.5.3 A detailed analysis of how long the Council had held on to commuted sums before they were used; and
 - 3.3.5.4 In what circumstances, and within which thresholds, it was considered reasonable to offer to contribute commuted sums to deliver on-site affordable housing, and that, should any of the above information be considered commercially confidential, the information should be provided to members of Planning Committee and Housing, Homelessness and Fair Work Committee in the form of a confidential members’ briefing rather than a report to Committee.
- 3.3.6 To note that there were no new planning approvals for Golden Share in 2021-23 and that no changes to Golden Share policy would be considered while City Plan 2030 was being considered by Scottish Ministers, but that the affordability of Golden Share continued to be monitored.
- 3.3.7 To note the affordability of Mid Market Rent (MMR) and Intermediate Rent (IR) homes as set out in previous reports to this Committee, and to further note the Council’s affordable housing guidance set out the affordable housing tenures in priority order, with social rented housing as the highest priority need, and to further note that IR could sometimes be time-limited.
- 3.3.8 To note that the overwhelming need for affordable housing identified in both HoNDA2 and HoNDS3 was for affordable rented accommodation.

- 3.3.9 To note that any significant changes to the affordable housing policy would be subject to consultation.
- 3.3.10 To therefore agree that reports presented to Committee as part of the preparation of guidance to support relevant policies once the City Plan 2030 had been approved would give consideration to consulting on changes to the affordable housing policy which focused on those tenures which best delivered affordable rented accommodation, and which considered limited or an end to the use of those tenures which supported low-cost home ownership or more expensive rental tenures, including, but not limited to, consideration of ending the use of Golden Share, and removing the time-limited aspect of Intermediate Rent.
- 3.3.11 To refer the report to Housing, Homelessness and Fair Work Committee for information.
- 3.3.12 To discuss with Officers if further advice could be given to applicants to ensure affordable housing.
- 3.3.13 To discuss with Officers the options to ensure social housing was delivered.

4. Main report

- 4.1 The AHP is a national planning policy which secures:
- 4.1.1 Land for affordable housing; or
 - 4.1.2 An equivalent number of affordable homes (25% of residential units); or
 - 4.1.3 A financial contribution equal to the land value of the affordable homes.
- 4.2 The AHP does not cover the full build cost of homes, only the land value for the required number of affordable homes, or a discount taking into account development costs and developer profit.
- 4.3 The [Affordable Housing guidance](#) sets out the Council's requirements and expectations in relation to affordable housing, including the circumstances in which a commuted sum may be considered in lieu of onsite affordable housing.
- Commuted Sums as reasonable alternative to onsite affordable housing**
- 4.4 Between 2021/22 to 2022/23 onsite affordable housing was secured for 85% of applications of 20 homes or more. However, there are specific situations when a commuted sum may be acceptable in lieu of onsite affordable housing, and this is set out in the Council's published Affordable Housing Guidance. The guidance sets out that:
- 4.4.1 The payment of commuted sums in lieu of on-site provision will only be acceptable where the total number of dwellings is below 20, or all of the following criteria are met:

- 4.4.1.1 There are exceptional reasons to avoid on-site provision, such as the site being poorly located for affordable provision, where conversions do not lend themselves to affordable provision, where it is evidenced to be unviable or unfeasible or where there are other advantages to the Council in accepting a commuted sum such as achieving more, higher quality or better-located affordable units elsewhere;
 - 4.4.1.2 The Council is confident that that the commuted payments can be spent on providing affordable units within the same area of the city within ten years of the payment being made; and
 - 4.4.1.3 The proposal is for less than 50 dwellings or is for a conversion.
- 4.5 It is only in these circumstances that a recommendation for commuted sum would be supported. If a commuted sum is being considered for development viability reasons, a number of checks will be carried out. In this situation, the applicant will be required to provide details of all development costs, which are checked and assessed by an independent surveyor on behalf of the Council.
- 4.6 National planning guidance sets out that *“Best practice is that the value (of the commuted sum) should be independently determined by the District Valuer”*, and this is also set out in the Council’s Affordable Housing guidance.
- 4.7 The District Valuer calculates the commuted sum by establishing the value of the land required for the affordable homes. National guidance sets out the principles for establishing affordable housing land value. This calculation is based on the gross development value (market values of the completed homes) minus the development costs (including finance costs) and developer profit which equals the associated land value.
- 4.8 The affordable housing land value (and therefore the affordable housing commuted sum value) is 25% of total development land value.
- 4.9 From 2017 onwards, every application which proposed commuted sums for affordable housing was considered by Development Management Sub Committee, with one exception. This was a commuted sum for one additional affordable housing unit, with the other 40 affordable housing units to be provided onsite. This sum for a single unit was within the delegated authority approval limits.
- 4.10 Commuted sums are used to support on-site affordable housing when a registered social landlord provides a justification for the use. If a funding shortfall is identified, commuted sums funding may be used alongside other means, such as Registered Social Landlords own financial reserves, funding from sales of existing stock or increased grant funding. All of these means are limited. Registered Social Landlords are charitable organisations, with finances monitored by their board of management, and within the regulatory framework of the Scottish Housing Regulator.

A detailed breakdown commuted sums use

- 4.11 In total over the last five years, £2.818 million has been used to support 675 affordable homes at 12 locations. The average amount of commuted sums funding committed over the period is just under £4,200 per home. A breakdown of the use by site is set out in Appendix 1. During that time, the AHP directly enabled over 3,300 affordable homes to be approved for site start and almost 2,500 affordable homes, delivered on site through the AHP, were completed.
- 4.12 The use of commuted sums is regularly reported to Planning Committee. The Affordable Housing Policy Delivery considered by Planning Committee on [7 August 2019](#) sets out commuted sum use up to the end of 2018/19.
- 4.13 The Affordable Housing Policy Update considered by Planning Committee on [19 May 2021](#) sets out commuted sums use for the period 2019/20 to 2020/21.
- 4.14 The Affordable Housing Policy Update 2023 considered by Planning Committee on [14 June 2023](#) sets out commuted sums use for the period 2021/22 to 2022/23.
- 4.15 Developer contributions, including affordable housing contributions, are secured through a Section 75 Legal Agreement as part of the planning consent process. The length of time to use sums is set out in these agreements and is currently ten years from the date the payment is received by the Council. If a commuted sum is not used within the agreed timescale then the planning applicant can request that the sums are repaid. However, all sums have been used within the agreed timescales and no requests for sums to be returned have been made.
- 4.16 Appendix 1 contains information on when the sums used between 2017 and 2022 were received by the Council and when they were used to support on site affordable housing.

Advice to applicants to achieve affordable housing on site

- 4.17 The Council's published Affordable Housing guidance sets out the expectation that applicants engage early with the Council on affordable housing and that for applications of 20 or more units, on site affordable housing is expected. Officers will advise applicants on any measures that may help to enable onsite affordable housing.
- 4.18 If an applicant has not engaged, then this is reported to Committee through the Affordable Housing consultee response and the application may not be supported. However, most applicants do engage and the majority of applications of 20 or more homes deliver onsite affordable housing.
- 4.19 If on site affordable housing cannot be achieved, the applicant needs to evidence why not, and independent checks are carried out. Only after all on-site options have been explored in detail with applicants, and if the evidence and independent checks further show that on site affordable housing is not practical, only then would commuted sums be considered.

Ensuring Social Rent Delivery

- 4.20 The Council's published Affordable Housing guidance sets out the expectation that 70% of affordable housing should be for social rent; the . Affordable housing tenures are ranked in order of priority. Social rent is the highest priority tenure with the highest level of need.
- 4.21 Social rent providers (registered social landlords) are charitable organisations with limited access to funds, who are reliant on grant funding to deliver affordable homes. In 2022/23, the average development cost of an affordable home was around £200,000 of which around 45% of cost is met through grant funding and 55% is private finance or borrowing raised by the registered social landlord.
- 4.22 Social rents are low to keep them affordable. However, the low rents limit the amount of borrowing that RSLs can obtain. Interest on loans is paid from rents, as is management and maintenance of properties and any upgrades for existing social rented stock. The combination of low rents, limited grant funding and limited private borrowing does mean that for some higher cost developments, social rented homes may not always be practical. Where social rents are not practical, other tenures are considered in the priority order set out in Affordable Housing guidance. There were 451 social rented homes in Edinburgh that were completed in 2022/23 and prior performance in relation to social rented homes is set out in the report Affordable Housing Tenures, considered by Planning Committee on [1 December 2021](#).
- 4.23 The Strategic Housing Investment Plan (SHIP) 2023-28 was approved by Housing, Homelessness and Far Work Committee on [1 December 2022](#) and set out a programme of 9,473 affordable homes which require grant funding and 64% of these are for social rent. However, to deliver this programme Edinburgh's grant funding allocation would need to increase from £45 million a year to over £142 million a year.

5. Next Steps

- 5.1 Performance in relation to the Affordable Housing Policy is reported annually to Planning committee. The next update will be brought to committee in Autumn 2024.
- 5.2 Further changes to AHP may be considered as part of the preparation of future guidance to support relevant policies in the City Plan 2030. As set out in national Planning Policy Guidance, any significant changes to the AHP would be subject to consultation and committee approval.

6. Financial impact

- 6.1 Between 2021/22 to 2022/23 onsite affordable housing was secured for 85% of applications of 20 homes or more. Without the AHP, affordable housing providers would not have been able to afford the land required for these homes.
- 6.2 Where onsite affordable housing delivery has not been possible, commuted sums have been sought. In the last five years, £2.818 million of commuted sums funding

has been used to support the delivery 675 affordable homes at twelve locations in Edinburgh.

7. Equality and Poverty Impact

- 7.1 The AHP secured over 2,200 affordable homes over the last five years on private land. These homes are affordable and increase the housing options of people on low to moderate incomes. Affordable homes are built to be more energy efficient and more easily adaptable than private homes and are therefore more affordable to heat and meet the long term needs of tenants.

8. Climate and Nature Emergency Implications

- 8.1 The City of Edinburgh Council declared a Climate Emergency in 2019 and committed to work towards a target of net zero emissions by 2030 for both city and corporate emissions and embedded this as a core priority of the Council Business Plan 2023-27. The Council also declared a Nature Emergency in 2023.
- 8.2 Affordable Housing Commuted Sums are used to support new build affordable housing. New affordable homes are constructed to high standards in terms of energy efficiency and sustainability.
- 8.3 There is a lower energy demand to heat the homes, with low or zero emissions heating systems required. This means they will minimise the amount of carbon emissions to aid with the city's ambition to be net zero carbon.
- 8.4 There are no adverse environmental implications arising from this report.

9. Risk, policy, compliance, governance and community impact

- 9.1 The AHP has been successful in delivering mixed tenure communities and providing affordable housing in diverse areas across the city. The AHP secures 25% of residential homes for affordable housing. However, increased mortgage rates have meant private housing is less affordable and the sector has responded by offering incentives to buyer and reducing output to match demand. Reduced numbers of private homes are likely to mean reduced numbers of affordable homes, with sites being phased over a longer period or delays in construction.
- 9.2 Commuted sums policy is set out in the published Affordable Housing guidance, and performance of the AHP is regularly reported to Planning Committee.
- 9.3 The impact of development is assessed as part of the Planning process.

10. Background reading/external references

- 10.1 Affordable Housing Policy Delivery, Planning Committee on [7 August 2019](#).
- 10.2 Affordable Housing Policy Update, Planning Committee on [19 May 2021](#).
- 10.3 Affordable Housing Policy Update 2023, Planning Committee on [14 June 2023](#).
- 10.4 [Affordable Housing guidance](#).

11. Appendices

11.1 Appendix 1 - Affordable Housing Commuted Sums received and used.

Appendix 1: Affordable Housing Commuted Sums received and used

Committed sums used to support affordable homes at:	Number of homes	Committed sums contribution	Sum per home	Sum originally received	Sum used
Small Sites Programme (Clermiston)	44	£202,182	£4,595	May 2013	Apr 2018
Fountainbridge Block L	19	£400,250	£21,066	Nov 2014	Mar 2021
Pennywell Phase 4	8	£56,007	£7,001	Sep 2013	Sep 2018
St Nicolas Court	12	£40,000	£3,333	Oct 2015	Apr 2018
Salamander Place	200	£606,356	£3,032	May 2013	Mar 2018
Ford's Road	14	£147,000	£10,500	Jan 2015	Jan 2020
Fountainbridge	113	£349,000	£3,088	Mar 2016	Aug 2020
Ferrymuir Gait	32	£270,000	£8,438	Nov 2015	Mar 2021
Viewforth (Former Boroughmuir High School)	17	£204,000	£12,000	Jul 2015	Aug 2020
Shrubhill	25	£344,045	£13,762	Dec 2015	Aug 2021
Rowanbank	33	£100,000	£3,030	Nov 2016	Mar 2022
West Craigs	158	£100,000	£633	Nov 2016	Mar 2022