

Housing Associations and Affordable Housing Planning Obligations

Practice Note February 2018

1. The Mayor has funding allocations with housing associations to deliver just under 80,000 starts for affordable homes through to 2021, over 80 per cent of these are expected to be on sites led by housing associations themselves or as part of a joint venture with another organisation. The Mayor is keen to support housing associations to maximise their affordable housing delivery.
2. This note provides guidance and explanation of the application of affordable housing planning obligations on sites led by housing associations¹. It is intended to assist people working within housing associations, local planning authorities and the Greater London Authority.

GLA affordable housing investment

3. The planning system treats applications led by housing associations on the same basis as those led by any other applicant. However, in order to maximise affordable housing provision the Mayor's affordable housing investment (as set out in the *Homes for Londoners: Affordable Homes Programme 2016-21* (AHP 2016-21) [funding guidance](#)) provides a different funding regime dependent on whether the scheme is led by an approved housing association², solely or as part of a joint venture, or other organisation (e.g. a private developer).
4. Three primary genuinely affordable housing options are funded through the programme:
 - *London Affordable Rent* – With benchmark caps based on social rent levels, this is a low rent option allocated according to need to Londoners on low incomes;
 - *London Living Rent* – With rents calculated based on local average incomes, this is an intermediate housing option to help Londoners on moderate incomes save for a home of their own; and
 - *London Shared Ownership* – Also known as part-buy-part-rent, this allows Londoners unable to buy on the open market to buy a share of a home and pay a low rent on the remainder of the value.

Approved provider funding

5. In recognition of the fact that approved housing associations, are required to deliver at least half of all their new homes as genuinely affordable housing the funding contracts allow them to apply a fixed grant rate of £60k per home based on social rent levels and

¹ Where they are "approved providers" see paragraph 3.

² See annex one for list of approved providers, all of whom are delivering at least 50 per cent of their starts as genuinely affordable homes.

£28k per home sold on a shared ownership basis or let at London Living Rent. The [funding guidance](#) for AHP 2016-21 (paragraphs 43-46) explains this approach in detail.

Developer-led funding

6. Grant is also available to schemes led by other organisations, where doing so will deliver a higher level of affordable housing than planning obligations alone. In the AHP 2016-21 funding guidance this funding route is called “developer-led”. An explanation of how this funding route operates is set out in paragraphs 47-52 of the AHP 2016-21 [funding guidance](#), in summary:
 - On a scheme delivering less than 40 per cent affordable housing, measured by habitable room, then grant can only be applied to homes over and above the minimum level secured by planning obligation. These additional homes are eligible for a fixed grant rate of £28k per home, irrespective of tenure;
 - On a scheme delivering 40 per cent or more affordable housing, measured by habitable room, then all affordable homes within the scheme, including those already secured in the s106 agreement, are eligible for a fixed grant rate of £28k per home, irrespective of tenure.

Planning obligations for affordable housing

7. The Mayor’s [Affordable Housing and Viability Supplementary Planning Guidance \(SPG\)](#) offers planning applicants a Fast Track Route through affordable housing planning obligation negotiations, as long as a minimum threshold of affordable housing (at least 35 per cent on most sites, increasing to 50 per cent on public land³ and industrial sites) is proposed and other relevant criteria are met⁴. If a lower level of affordable housing is proposed then a detailed viability assessment is required, which will be subjected to intense scrutiny alongside a requirement for an early and late viability review. This approach is also embedded in the draft London Plan.

The Fast Track route for housing associations

8. To qualify for the Fast Track Route, a housing association-led planning application must unconditionally commit to deliver at least 35 per cent affordable housing⁵. This commitment must be absolute, with no conditional lower level of affordable housing. When securing this level of affordable housing through a s106 agreement there should be no reference to grant.
9. If a housing association does not or cannot meet the requirements above and other relevant criteria (see footnote 2), then it will need to submit a full viability assessment and be subject to an early and late viability review, in line with the [SPG](#).

³ Land owned by housing associations is not considered public land, unless it was purchased from a public body.

⁴ To qualify for the Fast Track Route schemes must also: meet the required tenure split (see Affordable Housing SPG paras 2.38 to 2.42); meet other policy requirements and obligations to the satisfaction of the borough and Mayor where relevant; have sought to increase the level of affordable housing beyond 35 per cent by accessing grant.

⁵ Or 50 per cent on public or industrial land.

Additional affordable housing

10. All applicants are expected to explore whether grant funding could enable the viable delivery of additional affordable housing. For housing association led schemes this should simply take the form of asking them what, if any, higher level of affordable housing would be viable, subject to grant funding. For fast track schemes a viability assessment is not required to test this.
11. If additional affordable housing is viable with grant funding then this higher amount should be secured as a planning obligation alongside the absolute minimum level that must be delivered unconditionally (see previous section). The obligation should make it clear that the higher level is dependent on availability of grant funding on current terms.

Approved provider commitments

12. In addition to the levels of affordable housing secured through planning obligations the housing associations who are approved providers are delivering higher levels of affordable housing using their own resources and GLA grant. These London-wide affordable housing percentage commitments have been secured through GLA funding contracts. A list of these approved providers can be found at annex one, along with their minimum commitment to affordable housing delivery.
13. The Mayor is interested in overall affordable housing delivery and therefore stage 1 and stage 2 planning reports to him should reference this wider commitment. It is suggested that the following text be used:

“Across their delivery programme as a whole xx housing association is contracted to deliver at least xx% of their homes as genuinely affordable homes.”

14. The percentage commitment at annex one can be used to fill in the number above. If the provider is aiming to deliver a higher proportion (GLA funding contracts only secure the minimum) then they can request that this higher number is used in the report instead.
15. These London-wide affordable housing percentage commitments (see annex one) do not apply to every single site, as the commitments are only achievable if approved providers have the flexibility to use their resources strategically to maximise affordable housing provision across London. Therefore, it is important to note that the affordable housing percentage commitments made by approved providers **cannot** be used to secure affordable housing levels as planning obligations on individual applications.
16. Planning obligations in s106 agreements should not be used to restrict the transfer of market units to affordable housing.
17. S106 agreements should however include an obligation for owners to notify the borough where additional affordable housing is being delivered. Boroughs should record this on their monitoring database and share this with the GLA through the London Development Database.

Annex One – Approved Provider Affordable Housing Commitments

As part of a funding contract with the GLA the below partners have signed up to deliver at least 50% affordable housing across their starts 2016-21. Eight **large partners** have committed to 60%. Many will deliver higher levels of affordable housing.

Name of organisation	Percentage commitment
A2Dominion Homes	50%
Brick by Brick (Croydon Council)	50%
Catalyst Housing Limited	50%
City of London	50%
Clarion Housing Group	60%
Estuary Housing Association Limited	50%
Evolve Housing + Support	50%
Genesis Housing Association Limited	60%
Hexagon Housing Association Limited	50%
Home Group Limited	50%
Hyde Housing Association Limited	60%
Islington and Shoreditch Housing Association Ltd	50%
Lambeth RPCO Limited	50%
Lambeth & Southwark Housing Association Limited	50%
London & Quadrant Housing	60%
London Borough of Ealing	50%
London Borough of Enfield	50%
London Borough of Harrow	50%
London Borough of Havering Council	50%
London Borough of Hounslow	50%
London Borough of Wandsworth	50%
Metropolitan Housing Trust Limited	50%
Moat Homes Limited	50%
Network Housing Group Limited	60%
Newlon Housing Trust	50%
Notting Hill Housing Trust	60%
Octavia Housing	50%
One Housing Group Limited	50%
Optivo	60%
Orbit Group Limited	50%
Paradigm Housing Group Limited	50%
Paragon Asra Housing Group Limited	50%
Peabody Trust	60%
Phoenix Community Housing Association (Bellingham and Downham) Limited	50%
Poplar HARCA Limited	50%

Richmond Housing Partnership Limited	50%
Southern Housing Group Limited	50%
Southwark Council	50%
Swan Housing Association Limited	50%
Thames Valley Housing Association Limited	50%
Wandle Housing Association Limited	50%
YMCA Thames Gateway	50%