

Draft PPS 22 ‘Affordable Housing’ PUBLIC CONSULTATION

Emerging findings paper – 27th November 2014

Background

1. On 3 June 2014, the Department issued draft Planning Policy Statement (PPS) 22 for public consultation. PPS 22 contains the Department’s draft regional planning policy in respect of developer contributions toward affordable housing. The public consultation ran until 23 September. The draft proposals do not carry any weight and are not a material consideration in the assessment of planning applications for residential developments.

PPS 22 ‘Affordable Housing’

2. PPS 22 states that, for all development proposals containing five housing units or more the planning authority will seek the provision of affordable housing provision in accordance with the target established in the Department for Social Development’s (DSD) draft ‘Developer Contributions for Social and Affordable Housing’ consultation paper. The DSD paper sets out the housing policy in respect of developer contributions and was the subject of a separate public consultation exercise that ran concurrently with the consultation on draft PPS 22.
3. Where a development plan sets out a key site requirement for the provision of a social housing element less than this target, the planning authority will require further provision of affordable housing and / or commuted sums to meet the provisions of the identified target. In determining such applications, significant weight shall be given to the targets set in DSD’s draft housing policy.
4. Furthermore, where affordable housing and / or commuted sums are to be provided by the developer, the draft policy requires that these will be secured by way of planning condition or through a planning agreement between the developer and the planning authority which shall be in place before planning permission for the development proposal is granted.

PPS 12 ‘Housing in Settlements’

5. It is important to note that existing Planning Policy Statement 12 ‘Housing in Settlements’ acknowledges that the planning system has an important role to play in creating communities with a wider range of housing in terms of tenure, size, type and affordability. PPS 12 ‘Housing in Settlements’ Planning Control Principle 4 ‘Balanced Communities’ states that social housing should be provided by developers as an integral element of larger housing developments

where a need is identified; and that a mix of house types and sizes should be provided to promote choice and assist in meeting community need.

6. The policy provisions of draft PPS22 were intended to supersede policy 'HS2 Social Housing' contained in PPS12 as well as the element of Planning Control Principle 4 'Balanced Communities' that required that "social housing should be provided by developers as an integral element of larger housing developments where need is identified".

DSD paper

7. The DSD's draft housing policy paper sought views on a regional target level of contribution of, for example, a minimum 20%. It also set out a hierarchy of contribution options that established a preference, in first instance, for housing units on-site; followed by housing units off-site; housing units and a commuted sum; or a commuted sum. The paper proposed that if the developer can make a profit of 15%, over the whole development (market housing and the affordable element), the development can be deemed viable for scheme contribution.

Stakeholder Engagement

8. During the consultation period DoE and DSD facilitated a joint stakeholder engagement event at the Templeton Hotel. The event provided an opportunity to hear and discuss presentations on developer contributions including from Justin Cartright from the Chartered Institute of Housing (CIH); Jennie Donald from the Northern Ireland Federation of Housing Associations (NIFHA); John Armstrong from the Construction Employers Federation (CEF) and Professor Paddy Gray, the professor of Housing at the University of Ulster. The event was extremely well attended by house-builders; planning consultants; local councils; and professional and trade bodies and charities and proved useful in helping to inform stakeholder's consultation responses. It also provided useful feedback to both Departments on both draft documents.

Purpose of this report

9. This paper is not intended to be a comprehensive report on every comment received, but rather its aim is to provide Committee members with an overview of the main themes to emerge from the consultation on draft PPS22. DSD are currently preparing a report for the DSD Committee on the outcome of the consultation on 'Developer Contributions for Social and Affordable Housing' paper and this can be made available to the Committee upon request.

Overview of Consultation

Who responded?

10. The Department received a total of 53 responses to draft PPS 22. Responses were submitted from a range of stakeholders including house-builders/developers; planning consultants; professional institutes and trade associations. A full list of those who provided a response is attached at Annex A to this report.
11. The responses received to the consultation reflect a range of views. In summary it is possible to say that the response to the proposals is mixed. House-builders/developers; some professional institutes/trade associations; and some local council respondent's, while accepting the principle of developer contributions, generally express opposition to aspects of the detail of the proposals as well as the timing of the consultation. A small number of councils and community based organisations offer full support for the proposals as published. It is possible to identify a number of key themes to emerge from the comments received and these are addressed below.

Emerging Key themes

General Approach

12. A small number of responses from, or on behalf of, the house-building sector express opposition *in principle* to any proposal requiring private developers to contribute to the cost of providing affordable housing.
13. These respondents maintain that it is the responsibility of Government to ensure that the varied housing needs of the community are met and that it is therefore not appropriate to ask house-builders to bear these significant costs. Other respondents consider that the proposals amount to a tax upon private developers. A number of respondents consider that the proposals could distort the market as the cost of providing affordable housing units would be passed on to private house buyers.
14. A significant number of responses, including from the house-building sector, accept and support the stated aim of developer contributions in increasing affordable housing supply to meet need. They also acknowledge that planning policy for developer contributions toward affordable housing has proved useful in helping to address housing need elsewhere in the UK and Ireland. In this context many respondents accept the principle that it is appropriate to seek to secure a contribution from house-builders but do not agree with the details of the draft proposals in a number of important respects, particularly in relation to operational issues.

15. NIFHA express the view that the proposed approach, whereby PPS 22 sets out the planning policy in respect of developer contributions for affordable housing and the DSD policy paper contains the housing policy, has the potential to create confusion. They comment that the provisions of the DSD policy paper should be incorporated within a finalised PPS 22. NIHE comment that, as well as being incorporated into the finalised SPPS, a finalised PPS 22 should be published.
16. A few respondents from the community sector offer complete support for the proposals.

Market conditions

17. Whilst a small number of respondents offer unqualified support for the proposals, a significant number including house builders, planning consultants and professional institutions consider that the proposed approach fails to take account of the unique circumstances of the housing market in Northern Ireland. A number of respondents, including those from the house-building sector, observe that while housing transactions have increased, private new build rates have dropped significantly in the last 5 years and show little sign of recovery. The Construction Employers Federation (CEF) refer to the Northern Ireland Housing Bulletin figures showing that private housing starts for 2013/14 were down 13% on 2012/13.
18. A number of responses highlight other ongoing challenges with the local housing market, including the significant numbers of homeowners in negative equity; a continuing reluctance of banks to lend for residential development; and the likelihood of interest rates rising from their current historic lows. All of these factors are highlighted as working against any significant recovery in private housing starts in the short to medium term. A number of responses consider that the policy proposals are potentially damaging to a recovery as they impact adversely on land values and upon the appetite of landowners to sell to developers.
19. A number of other respondents, including from the local government sector, house-builders and a number of planning consultants observe that the proposed introduction of this policy comes at a time of significant change to the way planning is delivered in Northern Ireland under the reform of local government. The proposal to introduce a Strategic Planning Policy Statement and the associated transitional arrangements are identified as a further factor arguing against the introduction of a developer contributions policy at this time.
20. The proposed restructuring of the Northern Ireland Housing Executive (NIHE) and the proposals to create a regional housing body are also highlighted by some as introducing further uncertainty around the implementation of the policy at this time. However the NIHE is generally supportive of the policy and the timing of its introduction.

21. In general a significant number of respondents feel that introducing the policy now will potentially add to uncertainty, whilst contributing few additional affordable housing units and has the potential to further reducing new housing supply by acting as a disincentive to developers to build homes.

Model of developer contributions

22. A significant number of respondents express concern with the model of developer contributions that it proposed. In particular a number of respondents, including those from the house-building sector, consider that the threshold of 5 or more units identified in the policy is too low, and fails to reflect practice elsewhere. A significant number of responses express concern that this threshold may threaten site viability/profitability, while a number of others comment that it potentially conferred a competitive advantage on very small developers or developers of single houses, who would not be subject to the policy provisions.
23. Some respondents consider that the proposal could result in smaller developers of 5-10 homes which, it is suggested, represent the majority of house-builders in NI, withdrawing from the market. Other respondents, including NIFHA and a number those from the community sector agree that the threshold of 5 units is appropriate, especially in relation to housing development in rural areas.
24. The NIHE indicate however that it would welcome further detailed discussion on the proposed threshold to ensure that it is set at an appropriate level to provide an adequate supply of affordable housing in both urban and rural areas.

Level of contribution sought

25. The proposed level of contribution (20%) is set out in the DSD housing policy paper, however this aspect is raised repeatedly in responses to draft PPS 22.
26. Both NIHE and NIFHA agree that the level of contribution should be set at a regional level. They also observe that, in addition to setting out a threshold above which a contribution will be sought from developers, PPS 22 should also specify the regional level of contribution required. NIHE however indicate that they welcome further detailed discussion on the proposed level of contribution. NIFHA supports the proposed threshold of 5 or more units and the regional target contribution level of 20%. Both the NIHE and NIFHA wish to see the developer contribution further broken down as 75% affordable housing and 25% intermediate housing.

27. A significant number of respondents to the consultation raise a further concern with the nature of the developer contribution proposed. House-builders as well as some from the local government sector, express a strong view that the proposal to require developers to contribute the full cost of land, materials and construction costs is excessive and will compromise the viability of development proposals, and serve as a significant disincentive to build housing. They note that the proposal to provide affordable housing at nil cost appears to go further than equivalent provisions in the UK and Ireland where the cost of constructing affordable units is subsidised.
28. Whilst the NIHE support the aspiration that a system of developer contributions might operate on the basis of no public subsidy, it nevertheless considers this to be a long-term aspiration. In this context, NIHE think that the policy should clearly state that Housing Associations will continue to part fund affordable housing through private finance and that, in general, the contribution should be equivalent to the Housing Association Grant (HAG) per unit.
29. The NIFHA note that, affordable homes delivered through developer contributions will, for the foreseeable future, still require grant funding from Government to be viable for housing associations, albeit at a lower level of subsidy than on other sites.
30. NIFHA suggest that the developer contribution should equate to the market value of the land at the time of the application, with the housing association covering the construction costs with grant funding. NIHE consider that an appropriate alternative contribution would be the provision of serviced land which they suggest would be more easily understood and more transparent.
31. Other respondents observe that the level of contribution should reflect local circumstances and should be flexible enough to adapt to changes in the housing market.

Affordable Housing Team

32. Draft PPS22 sets out a requirement for an Affordable Housing Team (AHT) who would negotiate with the developer to determine the appropriate level and mix of affordable housing contribution/commuted sum. A number of respondents identify a need for further detail to provide further clarity in relation to how the AHT will operate in practice. In particular respondents from the community interests sector, local government sector and a number of planning consultants request additional detail in respect of the AHT, including how such a body would be appointed or funded.
33. Clarification on the stages at which an applicant or developer can engage with the AHT, especially in relation to pre-application

discussions and negotiations was also sought by the NIHE. More information on the method of engagement is also requested.

34. A number of responses highlight the importance of the AHT being resourced with staff with an appropriate set of skills to allow them to properly undertake economic viability modelling in order to arrive at the appropriate level of contribution. Some respondents comment that this will require the training of staff in development economics. The NIHE and a number of other respondents consider that the AHT should be located within the NIHE who already possess the necessary skills and experience to carry out this function.
35. The house-builders response noted that the estimated cost of establishing the AHT is between £250K and £1.5 million. Clarification is sought on how the team will be financed if, as is expected, economic viability modelling is likely to rule out meaningful contributions in the short to medium term.
36. One respondent suggests that the AHT should be identified as a statutory consultee to new councils and another that a service level agreement is required between the AHT and new councils to ensure minimum levels of service to the new councils.

Commuted sums v affordable housing

37. Draft PPS 22 states that the planning authority will seek the provision of affordable housing and / or commuted sums according to targets set through the Department for Social Development's 'Developer Contributions for Affordable Housing' draft policy. Clarification is sought from a number of respondents on the circumstances when a commuted sum will be acceptable as an alternative to the provision of affordable housing. In general responses from the community sector sought clarification that commuted monetary sums will only be permitted in exceptional circumstances and that money will be ring-fenced for the delivery of affordable homes. NIFHA also suggest that the policy text of PPS 22 should be amended to make clear that commuted monetary sums will only be permitted in exceptional circumstances in order to meet housing need and achieve the objective of creating more balanced communities.
38. Other responses suggest that a commuted monetary sum should only be permissible in those areas where housing need is already met, or where a commuted monetary sum would provide more affordable housing in an area of greater need. A number of other responses, including those on behalf of the house-building sector, seek clarification on how a commuted monetary sum of broadly equivalent value to the affordable housing contribution would be calculated. Clarification is sought on whether a contribution either in the form of housing units or a commuted sum, will be sought within areas where there has been no need identified.

39. Belfast City Council seek clarification that commuted payments would be spent on providing affordable housing units within the same general area and within a prescribed number of years of the payment being made.

Condition v planning agreement

40. A number of respondents seek clarification of when a planning condition might be used in preference to a planning agreement. NIFHA suggest that conditions should only be used to secure affordable housing provision with planning agreements employed where commuted monetary sums are sought. The NIHE suggest that a model planning agreement template is developed. Belfast City Council express a concern that the development of appropriate planning conditions or formal agreements will require legal input that could have resource implications for councils. The NIHE consider that a planning agreement should be used to secure the affordable housing requirements as this provided more detail, certainty and is more enforceable. Belfast City Council suggest that there is a high level of confidence in Article 40 agreements which they consider have worked reasonably well and that the Department should give further consideration to how such agreements could be used to secure affordable housing. House-builders are generally opposed to any increased use of planning agreements which are viewed as introducing additional delays and costs.

Impact on processing timescales and developer costs

41. A number of responses, including many from the house-building sector, express the view that the role of the AHT in negotiating the type and level of contribution has the potential to introduce delay and impact upon processing timescales for residential developments. These respondents also express a view that the requirement to conduct economic viability modelling in order to determine the level of contribution will further add to planning costs.

Method for assessment of financial viability

42. Other respondents observe that Departmental and Planning Appeal Commission staff will require training to enable them to accurately assess the financial viability of a scheme. A number of respondents from the house-building sector call for flexibility in the assessment of financial viability. Belfast City Council comments that viability assessment should be based on an appraisal to show Gross Development Value (GDV) less costs and reasonable development profit, leaving the site value as the residual.
43. The NIHE seek clarification of whether it is the role of the AHT to assess development viability, or whether this function is best carried

out by an independent valuer. A number of responses, including the Rural Residents Forum, also consider that any assessment of viability/profitability of an individual scheme must be objective and independent.

44. The NIHE support the use of an economic viability model such as the 'Three Dragons' model or the Homes and Communities Agency model. A response on behalf of house-builders indicates that use of an Internal Rate of Return approach to calculating the economic viability of schemes would be preferable.

Role of development plans v development management

45. A number of respondent's comments addressed the role of Local Development Plans (LDP's) in relation to affordable housing. A number of responses, including those from the Local Government sector considered that the affordable housing requirement for a particular area should be set out within LDP's.
46. Lisburn City Council consider that matters such as the threshold above which a contribution will be sought; the level of that contribution; and the design and integration of social housing are all aspects that should be set out within an LDP so that they can take full account of prevailing local circumstances. It is suggested that this would provide more certainty for developers as the nature of the required contribution would be known from the outset and could be reflected in site valuations.
47. NIFHA and the NIHE agree that the Department must be clear about the approach that councils should adopt in the affordable housing policies in development plans. NIFHA and the NIHE express the view that the development plan and development management systems have the potential to work in tandem to deliver affordable housing. Both also observe that the very early stage of preparation of development plans by new local authorities means the development management system will, for most of Northern Ireland, provide the only means of providing affordable housing through the planning system in the short to medium term.

Relationship with Strategic Planning Policy Statement (SPPS)

48. A number of respondents comment that there is a need for clarity regarding the relationship between the SPPS and PPS 22. A number of respondents seek clarification that a future PPS 22 should not be considered as 'secondary' to the SPPS.
49. A number of responses from the community sector comment that it is not clear what weight would be given to the SPPS and the existing Planning Policy Statements. These respondents recommend that the full text of draft PPS 22 is incorporated within the SPPS. This view is also shared by the NIHE who seek an assurance that PPS 22 is

incorporated in full within the SPPS to ensure that in the long term affordable housing policy is retained at a regional level.

50. A number of respondents also indicate a preference for draft PPS22 to be finalised and published separately from the SPPS. Lisburn City Council considers that the final version of the SPPS should set the general direction for the policy, with the operational detail to be determined at a local level through LDP's. Antrim and Newtownabbey District Council also remain unconvinced of the need for a policy document as these measures will be addressed in the SPPS and through LDP's.

Shared community – mixed tenure

51. There were a range of views in relation to mixed tenure and shared community objectives. Some local councils and community sector organisations fully support the objective of mixed tenure developments, other respondents, including those from the house building sector were concerned that such developments were difficult to deliver and less attractive to private purchasers.
52. NILGA comment that mixed tenure developments are a long term aspiration and that in the short term such an approach is likely to prove counterproductive. Conversely the NIFHA comment that the provisions of PPS12 Planning Control Principle 4 should be incorporated within PPS 22 to emphasise the importance of mixed and balanced communities¹.

Need for further research and consultation with industry

53. A number of responses, including from the house-building sector, professional institutions (including the RTPI) and planning consultants, suggest that the research underpinning this model is weak and that the policy area requires more research and evidence gathering.
54. There is also a call for further consultation and engagement to take place between government, industry, housing associations and professionals and the new councils in order to seek a consensus approach on a new framework for the delivery of affordable housing units via developer contributions.

¹ PPS 12 PCP 4 states that social housing should be provided by developers as an integral element of larger housing developments where a need is identified. Where a need is identified for Travellers specific accommodation this should be facilitated at suitable sites. A mix of house types and sizes should be provided to promote choice and assist in meeting community needs.

What are the next steps?

55. The consultation process has provided an opportunity for the Department to take views from a wide range of stakeholders on the proposed scheme for securing developer contributions in respect of affordable housing. In general, consultation responses have pointed the Department toward a number of areas where further up-to-date and Northern Ireland specific research should be undertaken before a final decision is made in relation to the operational detail of any scheme of developer contributions. The consultation responses in respect of the DSD housing policy paper have also indicated the desirability of further research to inform the detail of any scheme of developer contributions.
56. The partial Regulatory Impact Assessment attached as an Annex to draft PPS22 was also the subject of considerable focus in the responses. This Impact Assessment outlined the need for a small business impact test to be carried out following the consultation and prior to the implementation of any policy (as at the time the policy was being developed, it was difficult to gather sufficiently detailed information on the scale of the house building and development industry in Northern Ireland). These responses reinforce the importance of this small business impact test, which consultees indicate must be robust, thorough and developed through broad engagement with partners.
57. The Minister for the Environment and the Minister for Social Development have agreed that further research is necessary to provide up-to-date and NI-specific data as to the likely economic impact, both positive and negative, of the various options for developer contributions schemes that could be implemented.
58. The Department, therefore, proposes to pause and fully reflect on the outcomes of the consultation, and await the outcome of the proposed research, before deciding on the way ahead for developer contributions in Northern Ireland. This will also involve further engagement with key stakeholders.
59. In the interim social housing will continue to be delivered through the development plan process which will be the primary vehicle to facilitate any identified need for social housing by zoning land or by indicating, through key site requirements, where a proportion of a site may be required for social housing.
60. In addition, the Department will reflect this position in finalising the SPPS, by further emphasising the importance of development plans in ensuring an adequate and available supply of housing to meet the needs of everyone, including specialist housing needs such as social and affordable housing.

61. The publication, as appropriate, of further planning policy/guidance to councils on developer contributions toward affordable housing will be informed by further detailed research as referred to above.

Annex A

No.	Name
1.	Dungannon & South Tyrone Council
2.	Fermanagh District Council
3.	Ministry of Defence (MOD)
4.	Castlereagh Borough Council
5.	Cookstown & Western Shores Area Network (CWSAN)
6.	Antrim & Newtownabbey District Council
7.	Wilson Construction
8.	South Antrim Community Network Ltd
9.	Community Places
10.	Dr Keith Elliott on behalf of Hilmark Homes
11.	GRAHAM Group
12.	North Down & Ards District Council
13.	Construction Employers Federation (CEF)
14.	Royal Institution of Chartered Surveyors (RICS)
15.	Farrans Construction
16.	Lenadoon Community Forums
17.	Northern Ireland Co-Ownership Housing Association Limited
18.	Aspen Developments [Ltd
19.	P. Young & Sons Ltd
20.	Eassda (Bushforde Road) Limited
21.	Lagan Homes (Millmount) Limited
22.	Lagan Ravenhill Limited
23.	Langtree Limited
24.	Loughside Properties Limited
25.	Spruce Enterprises Limited
26.	Tolvin Limited
27.	Lagan Homes Limited
28.	Mid & East Antrim District Council
29.	Northern Ireland Environment Link (NIEL)
30.	Hagan Homes Limited
31.	Vaughan Homes
32.	National House-Building Council (NHBC)
33.	Irish Planning Institute (IPI)
34.	Chartered Institute of Housing Northern Ireland (CIH)
35.	Turley Associates Ltd (on behalf of: Acheson Homes; Boland Reilly Homes; Carvill Developments; Dunlop Homes; Mealough Developments LLP; Millmount Developments LLP; and Northland Developments)
36.	Lisburn City Council
37.	Rural Residents Forum
38.	TSA Planning
39.	Strategic Planning and Donaldson Planning (on behalf of: Beechview/Simpson Developments; Fraser Houses; Hillmark Homes; Kelvin Properties; McAleer & Rushe; and The McGinnis Group)
40.	Royal Town Planning Institute Northern Ireland (RTPI)
41.	Clyde Shanks (on behalf of: Blue Horizon Developments; The Richland

	Group; ME Crowe; Hilmark Homes; JJKeatley; Dixons Contractors; Railway View Ltd; and Artemis Developments Ltd)
42.	Belfast City Council
43.	Omagh District Council
44.	Colin McAuley Planning
45.	Fermanagh and Omagh Shadow Council
46.	Queen's University Belfast (QUB)
47.	Northern Ireland Federation of Housing Associations (NIFHA)
48.	Juno Planning & Environmental Ltd
49.	Causeway Coast Communities Consortium
50.	Northern Ireland Housebuilders Consortium (NIHC)
51.	Antrim Construction Company Limited (ACC)
52.	Northern Ireland Local Government Association (NILGA)
53.	Northern Ireland Housing Executive (NIHE)