The Delivery of Affordable Housing through Private Market Housing Development

The States of Guernsey

April 2024

Contact: **Helen Brzozowski**
Email: **Helen.brzozowski@arc4.co.uk**
Telephone: **0800 612 9133**
Website: **www.arc4.co.uk**

Table of Contents

List of Tables

Registered Address: arc4, 41 Clarendon Road, Sale, Manchester, M33 2DY
Email: businessteam@arc4.co.uk Web: www.arc4.co.uk
arc4 Limited, Registered in England & Wales 6205180 VAT Registration No: 909 9814 77
Directors Helen Brzozowski and Michael Bullock

1. Introduction

1.1 Housing needs, housing supply, and delivery of housing is currently regarded as one of the most pressing domestic issues for the States of Guernsey. Trends show that housing affordability in Guernsey has been a long-term issue. In 2016, through the Island Development Plan (IDP), a mechanism was first put in place through land use policy for the delivery of a proportion of the Affordable Housing requirement through private market housing developments. The mechanism has yet to deliver any Affordable Housing units.

1.2 The Development and Planning Authority (D&PA) is undertaking a statutory review of the Island Development Plan (IDP) on policies relating to housing land supply and employment land supply. As part of that review, the D&PA is reviewing Policy GP11 of the IDP to determine if it remains effective and appropriate for the delivery of Affordable Housing through the land planning system in light of the new States Strategic Housing Indicator (SSHI), which was approved by the States in February 2023. This set an Affordable Housing Indicator of 721 units of Affordable Housing over the next 5 years, comprising 473 in the Social Rental Housing tenure and 248 in the Partial Ownership Housing tenure, with a plus or minus variance of 72 new units, equating to an annual average of 144 units.

1.3 arc4 was commissioned to review the approach to delivering Affordable Housing through the planning system and the land supply identified in the SHLAA. The scope and methodology of this report have been set out by the Planning Service to gather the necessary evidence to inform the limited review of the Island Development Plan. Its focus is whether the Policy GP11 approach remains viable, achievable, and relevant, and what alternative mechanisms may be used to secure the delivery of Affordable Housing through the land planning system.

1.4 The scope has been to focus on how to maximise the delivery of Affordable Housing through the land planning system whilst balancing the requirements of all stakeholders. The recommendations acknowledge that there are some very different priorities between some developers and some political members and seeks to find a balance between those two extremes to make Affordable Housing through the land planning system workable.

Methodology

1.5 In developing this report, the following work has been completed:

- A review of the existing policy and strategy documents leading up to the introduction of Policy GP11 and the documents implementing it.
- A critique of the current policy through interviews with internal officers, external stakeholders, and property developers.
- Discussions with the Committee *for the* Environment & Infrastructure, *the* Committee for Employment & Social Security, and the Policy and Resources Committee, given their respective mandates and the impact this policy might have.

- Financial viability testing on existing schemes.
- A review of current practice elsewhere and interviews with Jersey and the Isle of Man.

2. The Economic Case for Delivering Affordable Housing in Guernsey

2.1 In 2023, the Committee *for the* Environment and Infrastructure published the Guernsey Housing Plan, which sets out a prioritised plan of action and the steps the States will take to tackle Guernsey's significant housing pressures. The overarching vision of the Guernsey Housing Plan is that:

'All people living in Guernsey will have access to a range of good quality housing that is affordable, secure, energy efficient and adequate for their needs.'

2.2 Through its work to inform the States Strategic Housing Indicator for 2023-2027[1], the Committee *for the* Environment & Infrastructure undertook an evidence-based assessment of the island's housing position to project the number of accommodation units the island requires to ensure the housing needs are met. This assessment compared the island's housing stock to the housing needs of islanders and projected that 1,565 additional accommodation units are required between 2023 and the end of 2027, based on a fertility rate of 1.5 and a net annual migration rate of +300. This total was further broken down into the number of additional units needed in the private housing market (844 units) and the Affordable Housing market (721 units), as well as the property sizes (in terms of the number of bedrooms needed).

2.3 Affordable Housing is defined by Section 2(1) of the Land Planning and Development (Planning Covenants) Ordinance, 2011[2]. In general terms, affordable housing is for those whose needs are not met by, or who cannot afford, accommodation in the private sale or rental market without assistance. It is normally provided through the States of Guernsey or a registered Housing Association.

2.4 The strategic agenda for Guernsey is to create a residential offer that retains existing residents and attracts economically active households. Getting the housing offer right in terms of type, size, tenure, and price/affordability is essential. The interdependence of the economic and housing strategies is critical. A key outcome of both strategies must be to raise income levels to afford better homes and services. Achieving this involves assisting existing residents in accessing better paid employment, encouraging young professionals/managers and families to remain on the island, and attracting more residents to move onto the island. Underpinning this is the residential offer. It needs to offer the choice to ensure that median and lower quartile income workers can live in Guernsey; if residents cannot move through the housing ladder, finding appropriate housing as their economic circumstances change or through their life cycles, then they will potentially leave, living elsewhere, taking their skills and spending power with them.

[1] A States-agreed figure which sets out the total number of additional accommodation units that should be created each year if Guernsey is to meet its housing need. The States Strategic Housing Indicator is further split into the 'Affordable Housing Indicator' and the 'Private Market Indicator'. See glossary of terms for further definitions.

[2] https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=54452

2.5 Without Affordable Housing, Guernsey risks losing the people doing the essential jobs which keep the island running. The divide between the salaries earned by those in elementary occupations and housing costs is increasing. The purchase price to earnings ratio in Q3 2023 was 15.4 and the annual rent to earnings ratio was 0.54.[3] In the Isle of Man Housing Market Review 2022[4], which is the most recent figure, the equivalent purchase price to earnings ratio was 9.97, and in Jersey the ratio of median property price to equivalised median net household income (2022) was 14.8[5]

2.6 Affordable Housing is crucial for maintaining an economic competitiveness. When housing costs are prohibitively high, talented workers may choose to relocate to more affordable places, resulting in a "brain drain" phenomenon. By providing Affordable Housing options, the States can retain skilled professionals, support local businesses, and foster economic growth because more people living and working on the island will be more likely to spend money too.

2.7 Affordable Housing ensures that more households have disposable income to spend on local goods and services. When a significant portion of income is allocated towards housing expenses, there is less discretionary income available for other sectors of the economy. By reducing housing costs, Affordable Housing supports local businesses, restaurants, retail, and entertainment venues, boosting economic activity. A study of the economic value of providing discounted rental housing to key workers in London is, on average, £27,000 per household. The cost of providing it of c.£14,000. The net benefit to London’s economy per household is at least £12,500 per annum.[6]

2.8 Housing conditions and the cost of housing are inextricably linked to health and wellbeing. Good quality housing is essential for everyone’s health and wellbeing; safe and sustainable housing can support good physical and mental health, reduce fuel poverty, decrease carbon emissions, reduce hospital admissions, and help people live independently for longer. It also has a positive effect on children’s education and can help people get and sustain employment. These are all priorities in the Guernsey Housing Plan. Poor housing is a driver of poor health and of pervasive and growing health inequalities. Affordability has a major impact on an individual’s ability to keep homes warm and how people travel to work and maintain social connections. Affordable Housing helps people to put down roots and have a stable base, a sense of community, and belonging. This helps to build cohesive communities.

2.9 Affordable Housing plays a vital role in maintaining neighbourhood stability. When neighbourhoods experience a mix of income levels, they become more socially diverse and vibrant. By offering Affordable Housing on-site, communities can prevent gentrification and maintain a balanced social fabric, supporting small businesses and preserving local character.

---

[3] Guernsey Quarterly Residential Property Pries Bulletin Q3 2023
[4] 2022-housing-market-report-030523.pdf (gov.im)

[5] Statistics Jersey, House Price Index Report (Fourth Quarter 2022)

[6] https://westminsterresearch.westminster.ac.uk/item/q90zx/estimating-the-value-of-discounted-rental-accommodation-for-london-s-squeezed-key-workers

2.10 Affordable Housing plays a key role in addressing inequality over the long term. Access to good quality housing does not affect all people equally. Many young people, and those on low and middle incomes, are locked out of property ownership, and left struggling to afford high rents. The well off and older generations, meanwhile, have enjoyed the greater security and financial benefits of owning property. Many people from older generations have worked hard, saved, and moved onto the property ladder. In doing so, they have often benefitted from an increase in their home's value. The affordability of a home is out of the reach of many young, working people, and this has a profound effect on their lives. For those who can afford to buy housing, there is the reward of often lower costs and an asset that increases exponentially in value. For those unable to afford a home, housing costs can be higher via rents, with no increase in wealth. Housing inequality is therefore both a symptom and a driver of wealth inequality. It creates and perpetuates a divided society, with increasingly divergent wealth and living standards.

2.11 The development of Affordable Housing can stimulate growth in the construction and housing sectors. Building affordable housing can create a ripple effect in the economy, fostering job creation, economic activity, and attracting investment.

2.12 The most immediate impact comes from the construction phase. Building affordable housing requires architects, engineers, construction workers, electricians, plumbers, and various other skilled and unskilled labourers. This surge in demand for labour directly translates into job creation.

2.13 Construction projects require materials such as steel, cement, wood, glass, and more. The demand for these materials boosts business for suppliers and manufacturers, creating additional jobs along the supply chain.

2.14 The new residents of affordable housing will require goods and services, such as groceries, healthcare, education, and entertainment, stimulating economic activity in the surrounding area. This creates a multiplier effect, as the initial investment in housing leads to increased demand in other sectors of the economy.

2.15 Affordable housing enables families to allocate more of their income towards discretionary spending rather than on housing costs. This increased disposable income can stimulate local businesses and services, further contributing to economic growth.

2.16 The presence of affordable housing can make an area more attractive to investors. Stable and affordable housing markets can signal economic stability and growth potential, encouraging investment in businesses and infrastructure in the area.

Should developers contribute to Affordable Housing?

2.17 Developers can play a crucial role in contributing to Affordable Housing, not only to meet regulatory requirements but also as a commitment to social responsibility, community development, and long-term business sustainability.

2.18 Developers, as key players in the construction and housing industries, have a social responsibility to contribute to the well-being of communities. Affordable Housing contributes to the overall development and stability of communities. It can foster a diverse and vibrant neighbourhood by providing options for a wide range of income levels. Developers who actively engage in Affordable Housing initiatives can build a positive reputation within the community. This can lead to increased trust and goodwill, which may benefit their brand and future business prospects.

2.19 By including Affordable Housing in their portfolios, developers can tap into a broader market segment. This diversification can help mitigate risks associated with economic downturns affecting higher-end markets. Investing in Affordable Housing can be a long-term strategy for developers. While profit margins may be lower compared to luxury developments, there is often a steady demand for Affordable Housing, providing a reliable income stream over time. The States Strategic Housing Indicator identifies the need for Affordable Housing.

2.20 Where developers deliver Affordable Housing through private market delivery, there are economic advantages. Affordable Housing will usually be bought by a housing association, and these can be bought off plan which reduce the sales risk for developers and can contribute to up front infrastructure costs which help with viability.

2.21 The delivery of Affordable Housing will also open up opportunities for developers to work in private and public partnerships with the Guernsey Housing Association and any States delivery vehicles that may be established in the future.

2.22 If developers/landowners do not contribute, then the full costs of building Affordable Housing will fall to the States of Guernsey through the general tax take.

3. Policy GP11

3.1 Appendix A sets out the policy background for the introduction of Policy GP11.

3.2 The Island Development Plan (IDP) was adopted by the States in November 2016 and is valid for ten years, unless extended by the States. The Plan includes Policy GP11 which requires Affordable Housing contributions from private market developments.

> The authority will require proposals for development resulting in a net increase of 20 or more dwellings to provide a proportion of the developable area of the site for Affordable Housing in line with the following:
>
> - 20 or more dwellings but fewer than 25 dwellings: 26%
> - 25 or more dwellings but fewer than 30 dwellings: 28%
> - 30 or more dwellings: 30%
>
> Where the provision of land is not feasible, consideration can be given to the provision of completed units on the site, and there is also some flexibility to consider off-site provision in exceptional circumstances.
>
> There is also flexibility within Policy GP11 to allow the percentage requirement for Affordable Housing contribution to be reduced where it can be demonstrated that the application of the policy, including all provisions for options, would make the development otherwise unviable.

3.3 The requirement can be provided in one of three ways and the following priority order:

- Transfer of land on the subject site to be developed for Affordable Housing by the States of Guernsey or a registered housing association: Where land is to be provided, the percentage required of the developable area will be transferred to the Committee for Employment & Social Security/Housing Association at nil cost. This was the priority because access to land was considered a more fundamental barrier to the delivery of Affordable Housing than the availability of funds.
- Provision of units: Where the transfer of land is not feasible, the provision and transfer of completed Affordable Housing units will be considered.
- Off-site provision: In exceptional cases, to meet some or all of the policy requirement, the provision of land or units off-site will be considered on a case-by-case basis.

3.4 Affordable Housing is secured through a planning covenant. However, in some instances, the use of planning conditions on any planning permission granted may be the appropriate mechanism to secure Affordable Housing.

3.5 The potential for the provision of a financial contribution towards Affordable Housing in lieu of direct provision of land or completed units is not currently possible.

4. A Review of Policy GP11 in Delivering Affordable Housing

4.1 The States Strategic Housing Indicator (SSHI) confirms the requirement for 1,565 new units of accommodation between 2023 and 2027, with a plus or minus variance of 157 new units (10%) to give the flexibility to react to market changes. This equates to an annual average of 313 additional units of accommodation.

4.2 The total SSHI being made up of:

a. a Private Market Housing Indicator set at creating 844 units of private market accommodation over the next 5 years, with a plus or minus variance of 84 new units, equating to an annual average of 169 additional units of accommodation.

b. an Affordable Housing Indicator set at creating 721 units of Affordable Housing over the next 5 years, comprising 473 in the Social Rental Housing tenure and 248 in the Partial Ownership Housing tenure, with a plus or minus variance of 72 new units, equating to an annual average of 144 units.

4.3 The 2021 Annual Monitoring report[7] states that, under the IDP, Policy GP11 has been relevant to only 1 planning proposal, (Pointues Rocques) where Affordable Housing as a proportion of a developable site area will provide 16 Affordable Housing units as a direct result of this policy.[8] An additional 60 Affordable Housing units have been permitted under other IDP policies. The permissions for Affordable Housing have been lower in 2019, 2020, and 2021 than in previous years under the IDP and this may be as a result of the supply of States-owned sites decreasing and a lag in the acquisition of new sites. Subsequent applications with a requirement for an Affordable Housing contribution have come forward since the publication of the 2021 Annual Monitoring report and these are referenced in the report where appropriate.

4.4 To consider the future of GP11, stakeholder consultation was undertaken with property developers, internal officers, politicians through Committee meetings, and the Guernsey Housing Association (GHA). The feedback, analysis, and arc4's views and recommendations are set out in this section.

The challenges within the GP11 policy

Thresholds

4.5 Policy GP11 was originally considering a threshold of 5 units. During the debate on the Island Development Plan in 2016, an amendment was agreed to increase the threshold at which GP11 would apply from 5 to 20 units. One of the reasons given by political stakeholders on why the threshold was raised was that if this had not happened, there was a risk that GP11 would not have been approved at all.

[7] CHttpHandler.ashx (gov.gg)

[8] At the time of writing, the planning covenant has not yet been agreed and signed.

4.6 The challenge that the higher threshold presents is that there are only a limited number of larger residential development sites in Guernsey that are capable of meeting the 20+ threshold to which Policy GP11 applies. In Guernsey, average site sizes have generally remained small scale reflecting the traditionally high rate of 'windfall' residential consents as opposed to plan-led housing allocations. Therefore, in terms of delivering Affordable Housing through private market development, Policy GP11 has had limited impact to date.

4.7 The IDP has policies (e.g. GP8b) to require the efficient and effective use of land, but evidently this has not been robust enough when applications are just below the GP11 threshold, and officers believe that developers have 'tried to' keep the numbers of larger schemes under 20.

4.8 Feedback from developers is that they actively avoid going over 20 if overall viability is impacted. For example, where numbers are at the 'cusp' of 20, developers may choose larger family housing to remain below threshold. Feedback from other stakeholders was that GP11 seems to have incentivised developers to reduce the number of units on sites to remain below threshold, which creates an inefficient use of land for such a small island. Guernsey Housing Association is trying to increase densities where it is able.

4.9 The view from developers was that every planning consent that created a net addition to the housing stock should make some contribution to Affordable Housing.

4.10 From the adoption of the IDP (2*nd* November 2016) to the end of 2023, 1168 dwellings were permitted on windfall sites. Of these 1168 dwellings, 523 dwellings were permitted on smaller sites (1-4 dwellings). 1259 dwellings in total have been permitted over this period, the remaining 91 dwellings on allocated housing sites, and as such windfall has accounted for 92.8% of dwellings permitted. The high proportion of smaller windfall sites is unlikely to change.

4.11 **arc4 would agree that with a threshold of 20, the policy is having limited impact in being able to deliver Affordable Housing through private market housing and is promoting inefficient use of land on an island of limited land capacity. The thresholds needs to be lower to enable the States of Guernsey to deliver the Affordable Housing that it identified as required through the States Strategic Housing Indicator.**

4.12 **If the threshold is not significantly reduced, then an amended policy will not deliver Affordable Housing.**

Agreeing Affordable Housing contributions

4.13 Developers confirmed that agreeing the contribution level which is determined as a percentage of the developable part of the site or land area is open to protracted and sometimes costly negotiation to reach agreement on density, developable area, and number of units, as well as viability. This introduces uncertainty into the development process. For example, developers cited determining the developable area e.g. GP11, SPG refers to 'constraints such as topography, irregular shape, water bodies....' presenting much room for difference of opinion and approach. Frustration was also experienced over the timescale and information that is required to assess development viability applications.

4.14 At present in the States policy, land is the preferred route but having a preferred requirement for on-site contribution would have more benefits within GP11.

4.15 Feedback from non-developer stakeholders was relatively consistent that on-site (rather than off-site or a financial contribution) delivery has significant advantages:

- On-site Affordable Housing promotes social inclusion by integrating individuals from diverse socio-economic backgrounds within the same community. It helps create a more balanced and mixed-income neighbourhood, fostering a sense of community and reducing social segregation. Genats Estate was given as a good example where key workers had now moved to but historically was mono tenure. It was previously a three-bed, all social rental neighbourhood with anti-social behaviour and a poor reputation. Now it is more blended, with mixed communities supporting each other. There is much evidence that people will look after their properties if mixed with others who do.
- As policies focus development on existing centres, on-site provision ensures that residents have easy access to amenities, public transportation, and job opportunities available. This can contribute to a more sustainable and efficient use of infrastructure.
- Integrating Affordable Housing within a larger development can lead to cost efficiencies, as the infrastructure and amenities can be shared between market-rate and Affordable Housing units. Developers may benefit from economies of scale, streamlined construction processes, and reduced administrative costs than delivering off-site.
- Where Affordable Housing is delivered on-site, there are more opportunities for collaboration between public and private funding, often essential for successful Affordable Housing initiatives and is in keeping with the aspirations of the Guernsey Housing Plan. It also allows developers to work with governments and non-profits to address housing needs collectively.
- On-site Affordable Housing may reduce resistance from residents who oppose Affordable Housing developments in their neighbourhoods. By integrating affordable units into a larger project, it becomes an integral part of the community rather than a standalone development.
- A mixed-income community with on-site Affordable Housing can contribute to the long-term viability and sustainability of the development. Diverse communities often have greater resilience and adaptability to economic changes.

4.16 Developers did accept that on-site delivery may be deliverable on larger sites, where there could be scope for better margins and could allow better integration of house types and tenures. Only one developer interviewed had dealt with GP11 directly, and despite offering some on-site Affordable Housing, the independent viability assessment (accepted by the States) stated the 320+ unit scheme was unviable with Affordable Housing and fell just below the accepted 20% profit level. Further analysis of the viability assessment confirmed that the assessment used Private Market Land Values, which is not best practice and Benchmark Land Value would have been expected within the financial appraisal.

4.17 There was a belief from a number of developers that providing on-site Affordable Housing would impact the marketability of a development. Two developers mentioned that mixing social/affordable into many sites is just not possible to 'blend in' without deterring purchasers. A number of developers believed it also impacted on the Private Market Value of houses for sale.

4.18 Officers in the States of Guernsey challenge this feedback and cite the Les Oberlands Field development (planning application Full/2023/2391). Whilst, at the time of writing this is at the planning application stage, the proposal is for a private property developer to build out the entire site and for Guernsey Housing Association to buy 15x 1-bed units from that site using a grant from the States of Guernsey[9]. The private property developer will sell the remaining 6 properties onto the market. Properties have not been devalued. A similar site is Le Menage, a community living development for the over-55s, which was completed in 2022.

4.19 **arc4 was not provided with any evidence that on-site Affordable Housing impacts the marketability or value of private housing. arc4 recognise the significant advantages that on-site contributions give and also the certainty of delivery given the need identified as part of the Affordable Housing Indicator within the States Strategic Housing Indicator.**

Challenges in the implementation of GP11

4.20 Throughout stakeholder work, feedback confirmed that there are very different views from political members as to whether developers should be required to deliver Affordable Housing at all. Views ranged from significant commitments to deliver Affordable Housing to removing GP11 and allowing the market to deliver the type and size of new homes that it wanted to deliver.

4.21 Feedback from internal stakeholders confirmed that whilst Supplementary Planning Guidance was developed to provide more detailed information about the application of GP11, this has not been updated and could be more robust.

4.22 Developer feedback criticised that although developers are encouraged to discuss sites with planners at the earliest opportunity, there is no specific guidance on developing applications to include Affordable Housing contributions and to date there has been no specific guidance on densities for sites.

4.23 A number of developers mentioned resourcing levels and skills in the Planning Service, and time taken to progress issues including development frameworks and planning covenants, delayed Affordable Housing delivery and suggested improvements could be made. A certain amount of scepticism was expressed regarding the States engaging UK-based surveyors to undertake development viability assessments as it was perceived that such practices did not necessarily appreciate the nuances of building on the island in relation to securing land

[9] Joint venture could see key worker and private housing at Oberlands - States of Guernsey (gov.gg)

opportunities and the additional construction costs caused by materials having to be transported to the island.

4.24 All stakeholders criticised Policy GP11 because it did not have an option to provide a financial tariff.

4.25 Within the review of the Island Development Plan, the Strategic Housing Land Availability Assessment has identified densities for allocated sites to be included and a density matrix of different category of sites such as main centre inner areas and main centre outer areas, but this information is not currently included in Supplementary Planning Guidance and as a result, developers have been able to under develop sites despite being required to make the most efficient and effective use of land.

4.26 The Supplementary Planning Guidance also contains outdated financial assumptions. The benchmark data (construction costs, sales values, finance costs, land values) in the Supplementary Planning Guidance of GP11 are from 2016 and have not been updated. Although officers confirmed that updated assumptions are made in testing the financial viability of sites[10], developer feedback was that every variable will need justifying.

4.27 Whilst officers and the States website confirms Nationally Described Space Standards (NDSS) are referred to as best practice when considering proposals for new housing under the policies of the IDP, these are not reflected in the Supplementary Planning Guidance, and a review of a number of schemes confirmed that much larger floor areas for dwellings are being built on some developments. This is further considered under financial viability in section 5.

4.28 Developers expressed frustration at the length of time it took planning to agree scheme mixes and typologies and there was some perceived resistance to allowing developers to build larger family homes, with developers suggesting that they know the market need best. Feedback from officers was that many developers are prepared to offer Affordable Housing through GP11 but need certainty at an earlier stage in the process about what the contribution would be in terms of numbers, sizes, and types. Officers confirmed that it is already possible to engage at an early stage to agree Affordable Housing requirements in terms of type and size, pre land purchase etc. This could be made a mandatory step in the process. Pointues Rocques and Le Menage were cited as examples of where this approach worked well.

4.29 The States of Guernsey are prepared to be flexible on type, mix and size to help ensure individual sites comes forward as long as strategic need (including the SSHI) is delivered overall.

4.30 Previous focus groups with developers confirmed that developers did not object to the principle of providing a contribution to Affordable Housing provision and even a lowering of the applicable policy threshold considerably but see the existing processes for determining the level of contribution and for providing Affordable Housing as cumbersome, lengthy, and not responsive enough. This resulted in a

[10] GP11 says 'the Planning Service will use industry standards for each of these variables at the time.'

preference for developing smaller sites where no Affordable Housing contribution was required rather than bringing forward larger sites.

4.31 **arc4 would agree with these findings. The process for calculating contributions and securing them has such a negative impact that it plays a significant part in developers not bringing forward larger housing sites albeit there are very few larger sites on the island to which GP11 would currently apply. This includes methods of calculating contributions, the stage in the process this is done, the range of options for making contributions, viability testing, and the use of planning covenants in a litigious way as part of the process, all of which impact on the ability to provide Affordable Housing as part of private market developments.**

Covenants

4.32 Developers suggested that GP11 Planning Covenants are unwelcome to banks and funders and create an obstacle to bank security arrangements. Developers and planners agreed that the use of planning covenants to deliver contributions introduced a lengthy process with high levels of uncertainty too late in the development process for the required contribution to be considered when securing development finance and negotiating for the purchase of sites. 'Developers like to have a three-year investment exit horizon and GP11 creates delays that compromise the objective of achieving a three-year exit and thereby causes increased financial costs.' There is a need for a simple and clear system, which enables developers to determine the Affordable Housing contribution at the outset of the development process.

4.33 **arc4 agrees that while planning covenants serve important regulatory and community planning purposes, they can also pose challenges for banks and funders when assessing the risk and suitability of financing arrangements. Developers and property owners need to work closely with lenders and the States of Guernsey to address any concerns related to planning covenants and mitigate potential obstacles to bank security arrangements.**

The appetite to purchase affordable units

4.34 Feedback from many developers and political members was that the Guernsey Housing Association was not interested in acquiring a small number of plots on a site dominated by market sale. Feedback from Guernsey Housing Association did not substantiate this, and the association very much supports mixed-tenured developments and could not see any issues of managing small numbers of Affordable Housing units on sites, in particular single affordable homes that might arise from a contribution under GP11. Guernsey Housing Association confirmed that developers had not discussed GP11 requirements and purchasing units on any sites with them ahead of acquiring the land.

4.35 The GHA Board is also very keen however to deliver new homes. However, many of the sites brought to Guernsey Housing Association require significant planning to unlock and bring them forward for development. GHA is considering sites in its ownership initially, which include the former CI Tyres site and Vielle Plage. The Committee *for* Employment & Social Security also has a work programme titled "Affordable Housing Development Programme" which maintains a programme for delivery Affordable Housing.

4.36 Discussions were held about the potential for developers to sell Affordable Housing units to alternative owners such as institutional investors or to be retained by the developers themselves. Whilst further work would be required on future management, standards, and retaining the units in perpetuity, this was considered an area worth exploring. A developer said having more than one housing association may bring healthy competition to the market.

4.37 Feedback by a number of internal stakeholders proposed that individual developers should be enabled to deliver and retain Affordable Housing. This would potentially introduce additional Housing Associations into Guernsey. Alternative solutions may be to enable the States of Guernsey to provide an Affordable Housing management service to developers retaining ownership of Social Housing. Discussions with the States of Guernsey confirmed that these are possibilities, although discussions with Guernsey Housing Association confirmed that as long as properties met the required quality and standard, then they would be able to manage them.

4.38 **Additional research could be undertaken to consider the role of institutional investors in acquiring Affordable Housing delivered through private market development. At this stage, the Guernsey Housing Association is not a barrier to delivering Affordable Housing through private market development.**

Alternative Affordable Housing options

4.39 Developers have a preference to deliver shared equity or intermediate rent for key workers rather than social rented Affordable Housing or Partial Ownership.

4.40 There was a willingness amongst developers to consider other means of delivery for the first-time buyer market as there needs to be movement in the market, but if discounted market sale was introduced, it would need a flexible bank and government backing. A number of developers thought first-time buyer loans should be considered by the States.

4.41 **arc4 would support these options and recognise that this has been supported through the Guernsey Housing Work Plan. However, this is a longer-term priority when housing supply has increased.**

Financial viability of the current GP11 policy

4.42 One of the most criticised positions of GP11 is that schemes are no longer viable when Affordable Housing at the current requirement is needed. This section considers viability in more detail.

4.43 Developers believe that the current requirement that 26-30% of land be set aside for Affordable Housing was wholly unrealistic given the disproportionate cost of constructing new homes on the island compared to the UK mainland. Developers felt that there is a perception that '*residential development is more profitable than it really is.'* The following viability challenges were identified by developers:

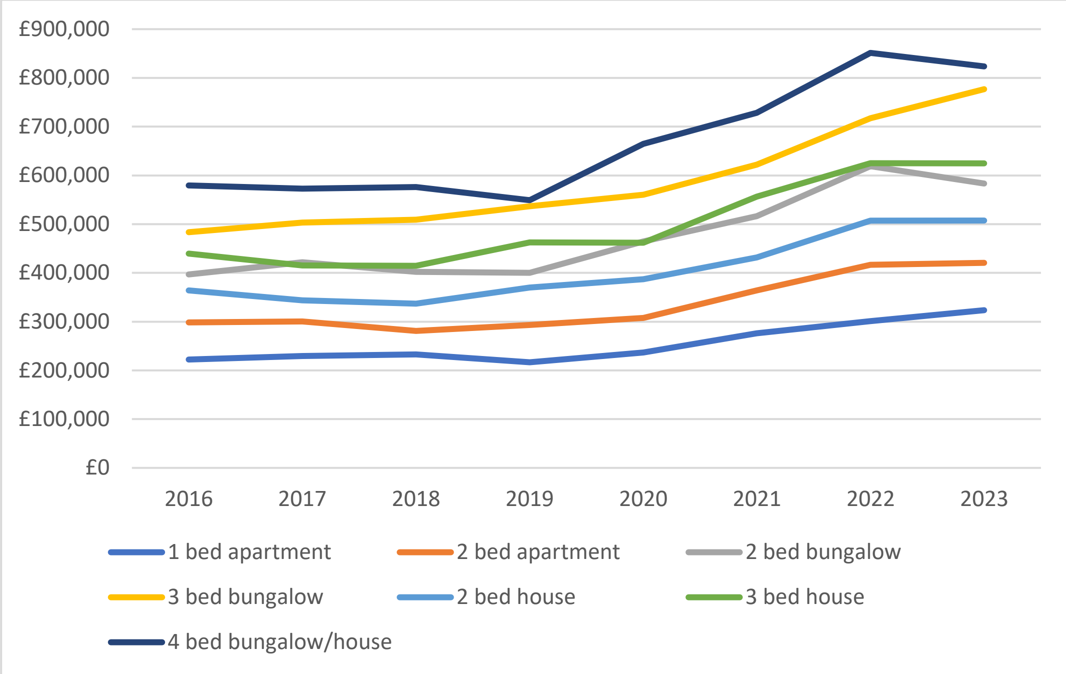
- High construction costs – all developers cited c.30% higher than UK inc. freight and distribution costs.
- Finance costs and cashflow – Developers cited that most lenders would only provide development finance at 60% of GDV and so developers were having to borrow money at higher rates from other sources to ensure construction budgets were fully funded which left little opportunity to generate higher margins (above 20%) to fund Affordable Housing.
- Land costs – Some developers confirmed that landowners have a view of what their land is worth and will *'sit on it'* rather than negotiate on price to reflect the GP11 contribution. *'Many landowners can afford to wait.'* Longstanding sites then may be traded over the years, hence the land premium becomes locked in.
- Sales – currently impacted by mortgage rates and confidence. There are always peaks and troughs, but developers currently have a real 'fear' around sales risk.
- Elongated timescales for development on the island is adding to costs and risks.
- Infrastructure costs and the usual risks including drainage were mentioned.

4.44 A couple of developers thought that anything that helped developers with funding and cashflow would be an effective incentive.

4.45 Conversations with a panel of developers highlighted that the impact of external factors such as Brexit, Ukraine/Russia war, and Covid has created an unprecedented inflationary increase in construction costs that has seen tender prices reach and exceed £3000 per sq. m. The lack of suitable tradesman, delays in the supply chain, higher fuel and transport costs, greater regulation especially in terms of fire safety etc. are all issues that have been cited as major reasons for prices to rise to an unprecedented level. However, the market value of residential property has risen substantially since 2016.

4.46 Chart 4.1 illustrates property value increases since 2016. Two and three-bed houses have increased by 39.4% and 42% respectively over this period and there are similar trends for all other property types. This should be able to help absorb the additional construction cost.

Chart 4.1 Median property values on the island



Source: Guernsey Housing bulletin

4.47 Viability was a controversial element of GP11, with some political stakeholders concerned that developers could make a viability calculation 'fail'. There are concerns that developers are able to manipulate figures that artificially inflate costs. Some political members are concerned that whilst a similar type of policy (to GP11) works in many other jurisdictions, it does not appear to do so in the States of Guernsey.

4.48 arc4 reviewed a number of recent schemes that secured planning consent and had economic viability assessments undertaken by an independent assessor which evidenced that neither scheme has been able to provide any on-site Affordable Housing based on the presumption that such provision would make each project unviable. Those schemes reviewed were Briarwood and Leales Yard.

4.49 In reviewing the assumptions made, arc4 can reflect that:

- Assumed sales values per square metre reflect current values and are higher than those set out in the 2016 SPG.
- Construction costs are higher than those set out in the 2016 SPG.
- The land value within the viability assessment has not assumed a Benchmark Land Value (BLV) of £70k-£90k per hectare as per SPG Affordable Housing 2016 with some incentive for the landowner to sell. Instead, the full Private Market Value (OMV)[11] of the site has been paid, without any sharing of the associated

[11] Private Market Value is deemed the fair price for a property if sold in normal circumstances; i.e. the seller is not in a distressed situation, and the market is operating under normal conditions.

risk and costs to achieve a residential planning consent. This has had a significant impact on the viability of the schemes with Affordable Housing included.

- The size of affordable units proposed in these schemes are significantly greater than what may be expected for an Affordable Housing unit. For example, the Briarwood smallest 2-bedroom home is 114 sq. m which compares to 79 sq. m for the largest comparable dwelling within the Nationally Described Space Standards (NDSS), which are a consideration when developing new housing under the policies of the IDP. The Nationally Described Space Standards are available on the States of Guernsey website.[12] In reviewing these schemes, the delivery of larger homes requires more building material and more labour and, therefore, costs more to build. By not incorporating smaller size units in the development appraisal, it is distorting the viability assessment and calculation of the potential of providing on-site Affordable Housing. arc4 would normally assume that affordable dwellings would be delivered at or close to the UK government's Nationally Described Space Standards, which are referred to in Guernsey as best practice and as set out in Table 4.1.

4.50 There is a strong argument for ensuring that developers deliver in line or closer to the Nationally Describer Space Standards. There is a need for smaller homes to meet the island's housing needs. It is very clear that in Guernsey, as in many other parts of the developed world, household sizes are falling, and people are living in smaller households. Between 1991 and 2021, the number of people per household fell from 2.77 to 2.54[13].

Table 4.1 Minimum gross internal floor areas and storage (m2)

Number of bedrooms	Number of bedspaces	1 storey dwellings	2 storeys dwellings	3 storeys dwellings	Built-in storage
1b	1p	39			1.0
1b	2p	50	58		1.5
2b	3p	61	70		
2b	4p	70	79		2.0
3b	4p	74	84	90	2.5
3b	5p	86	93	99	2.5
3b	6p	95	102	108	2.5
4b	5p	90	97	103	3.0
4b	6p	99	106	112	3.0
4b	7p	108	115	121	3.0
4b	8p	117	124	130	3.0
5b	6p	103	110	116	3.5
5b	7p	112	119	125	3.5
5b	8p	121	128	134	3.5
6b	7p	116	123	129	4.0
6b	8p	125	132	138	4.0

[12] https://www.gov.gg/CHttpHandler.ashx?id=116050&p=0.

[13] Table 1991-2006 Census Reports 2010 onwards Annual Housing Stock Bulletin

4.51 **Clear financial assumptions that are adhered to and enforced is needed when considering the viability of schemes in regard to Affordable Housing delivery.**

5. The Financial Viability of Policy GP11

5.1 The financial viability of any amended GP11 policy is essential and this section considers the financial viability of the potential of several sites that are allocated or could be allocated for housing in the IDP within the current financial parameter envelope as set out in the Supplementary Planning Guidance.

5.2 arc4 have considered the potential of a scheme being able to generate on-site Affordable Housing and achieving a 20% developers profit margin based on the financial parameters detailed in SPG 2016, with some uplift in construction costs and market values to reflect the current market, and adopting the NDSS for the affordable dwellings. To focus on the viability outcomes, schemes have been anonymised. The assumptions used are shown in Table 5.1. arc4 appreciates that these financial parameters will have changed since 2016 but considers them initially to test whether the envelope within which they are applied is viable.

5.3 Later in this chapter updated financial assumptions are used.

Table 5.1 Assumptions used in viability assessments

	2016 Assumptions	arc4 Assumptions 2024
Construction Costs	£2,400-£2,900 per sq. m	£3,000 per square metre (assumes AH will cost less than OM)
Professional Fees	9-15% of the overall cost of the project, mid-point of 12% applied	12% of build cost
Sales Costs and Marketing	1.5%-3% of the sales value, mid-point of 2.25% applied	£5,000 per dwelling
Finance/Borrowing Rates	6% of overall cost of the project	6% of overall cost of the project
Sales Values	£2,300 to £5,800 per sq. m representing range of lower and upper ends of the market	Private Market Value - £4,830-£5,100 per square metre Affordable Housing Value - £2,900-£3,007 per square metre (40% discount) Sites marked with * are at OMV £4,830 and AHV £2,900 per square metre
Developers Profit	(20% of sales value)	(20% of sales value)
Land Values	£70k-£90k per hectare for open land; in excess of £2million plus per hectare for development value	£70k-£90k per hectare for open land; in excess of £2million plus per hectare for development value

5.4 The sales assumption figures used by arc4 have been lower than the current median values published by the States. For example, the highest 2-bed apartment assumed was £361k compared to the published figure of £420,625 and the 3-bed house figure has been assumed at £468k compared to the published figure of £624,375. arc4 has used lower figures to apply more caution and therefore buffer to the financial appraisals being undertaken and to take into account any claims by developers that Affordable Housing on-site would devalue properties.

5.5 Table 5.2 shows the number of affordable dwellings delivered on individual schemes under the current policy and shows the potential developer profit if land is purchased at Benchmark Land Value (BLV) and then at Private Market Value. The gross discount is the discount that would be applied to the private market sale units and is usually around 40%. It is determined by multiplying the floor space of the property by the Private Market Value per sq. m figure and then taking 40% of that figure.

5.6 If Benchmark Land Value is used as the cost to reflect land value for viability purposes, then it is possible that the minimum assumed developers return may be generated and on-site Affordable Housing provided on many sites. Some schemes are only providing 20% and others less with a limited buffer for increasing costs.

5.7 However, it is highly unlikely that landowners will sell sites at BLV if they believe that their asset is within an area that planning for residential purposes is likely to be granted, and that the market value of new homes is so high.

Table 5.2 Developers margin after including on-site Affordable Housing at the current requirement

Scheme Name	No. of Affordable Dwellings	Gross Discount (£'s)*	Developer Margin Using BLV	Developer Margin Using OMV
Scheme 1	6	£639,772	20%	1%
Scheme 2	6	£639,772	24%	14%
Scheme 3	3	£446,428	20%	(1%)
* Scheme 4	18	£1,899,672	20%	12%
* Scheme 5	47	£5,883,819	16%	7%
Scheme 6	20	£2,478,003	16%	4%
Scheme 7	6	£638,994	32%	20%
Scheme 8	12	£1,448,994	27%	16%
* Scheme 9	22	£2,381,768	25%	12%
* Scheme 10	16	£2,392,000	22%	8%
Scheme 11	34	£3,863,471	29%	18%
Scheme 12	15	£1,729,355	28%	12%

*The gross discount has been calculated by discounting Private Market Values of units by 40%

5.8 Further viability testing has been undertaken to consider different market conditions. These are:

- Construction costs increase by 20% but all other variables remain the same.
- Market value of completed homes increase by 5% but all other variables remain the same.
- Affordable Housing requirement is reduced to 20%.

5.9 Table 5.3, 5.4, and 5.5 reflect these assumptions.

Table 5.3 Construction costs increase by 20% but all other variables remain the same

Scheme Name	No. of Affordable Dwellings	Gross Discount (£'s)*	Developer Margin Using BLV	Developer Margin Using OMV
Scheme 1	6	£639,772	11.62%	1.38%
Scheme 2	6	£639,772	6.66%	(23.3%)
Scheme 3	3	£446,428	5.63%	(2.83%)
* Scheme 4	18	£1,899,672	0.9%	(2.48%)
* Scheme 5	47	£5,883,819	0.34%	(1.74%)
Scheme 6	20	£2,478,003	11.89%	3.17%
Scheme 7	6	£638,994	7.13%	(0.86%)
Scheme 8	12	£1,448,994	5.57%	(2.48%)
* scheme 9	22	£2,381,768	3.35%	(6.71%)
* Scheme 10	16	£2,392,000	8.19%	0.17%
Scheme 11	34	£3,863,471	8.07%	(3.64%)
Scheme 12	15	£1,729,355	11.62%	1.38%

*The gross discount has been calculated by discounting Private Market Values of units by 40%

5.10 Clearly in this scenario, if construction costs increased by 20% which equates to £3,600 per square metre, developers profit would be non-existent if Private Market Value was being paid for the land and Affordable Housing was provided on-site as per existing policy. Even if the land was discounted to Benchmark Land Value, the developer return generated is so low that it is unlikely that funders would absorb the risk and fund the development.

Table 5.4 Market value of completed homes increase by 5% but all other variables remain the same

Scheme Name	No. of Affordable Dwellings	Gross Discount (£'s)*	Developer Margin Using BLV	Developer Margin Using OMV
Scheme 1	6	£639,772	33.29%	22.04%
Scheme 2	6	£639,772	41.2%	26.11%
Scheme 3	3	£446,428	32.39%	8.08%
* Scheme 4	18	£1,899,672	31.49%	19.74%
* Scheme 5	47	£5,883,819	25.47%	19.53%
Scheme 6	20	£2,478,003	25.5%	22.47%
Scheme 7	6	£638,994	41.51%	28.64%
Scheme 8	12	£1,448,994	35.44%	23.63%

* scheme 9	22	£2,381,768	31.47%	17.83%
* Scheme 10	16	£2,392,000	32%	17.4%
Scheme 11	34	£3,863,471	36.9%	24.9%
Scheme 12	15	£1,729,355	36.04%	18.96%

*The gross discount has been calculated by discounting Private Market Values of units by 40%

5.11 If values increase marginally (5%) then this adds considerable value to the overall performance of all schemes, even where private market value is paid for the land. The one anomaly is Scheme 3 which consists of a small cluster of new homes set within significant mature grounds with limited development potential, hence the land value per dwelling is far higher than traditional development sites. This supports having an overage agreement in place to retest sites post-delivery to review viability and whether developments could have made an Affordable Housing contribution.

Table 5.5 Affordable Housing requirement is reduced to 20%

Scheme Name	No. of Affordable Dwellings	Gross Discount (£'s)*	Developer Margin Using BLV	Developer Margin Using OMV
Scheme 1	4	£428,000	29.15%	18.83%
Scheme 2	3	£321,000	38.58%	23.77%
Scheme 3	1	£148,800	33.6%	9.06%
* Scheme 4	12	£1,181,796	29.36%	17.25%
* Scheme 5	30	£3,564,072	22.28%	11.48%
Scheme 6	12	£1,348,207	26.12%	23%
Scheme 7	5	£530,000	34.41%	22.2%
Scheme 8	8	£921,772	33.14%	21.54%
* scheme 9	15	£1,541,796	29.01%	15.62%
* Scheme 10	11	£1,787,144	29%	14.39%
Scheme 11	22	£2,268,575	30.89%	19.41%
Scheme 12	10	£1,066,287	38.07%	20.62%

*The gross discount has been calculated by discounting Private Market Values of units by 40%

5.12 Table 5.5 illustrates that by reducing the number of affordable homes, thus reducing the developers discount and increasing the scheme revenue, the anticipated developers margin even when applying Private Market Value to the land price increases significantly, and in some circumstances meets the threshold for providing on-site Affordable Housing.

5.13 The viability exercise shows that many proposed schemes can deliver the current GP11 requirements for on-site Affordable Housing, even using more cautious private market sales values whilst returning at least 20% developer profit. There will always be schemes that cannot deliver the full requirement of Affordable Housing but that should be dealt with through an open book financial viability exercise.

Updated financial assumptions

5.14 This section considers the developer profit after applying on-site affordable housing asset out under policy GP11, but utilises agreed financial parameters that increase construction costs, interest rates, the price of land and sales values. These reflect the anecdotal feedback provided to arc4 from a range of stakeholders, which is the best available data and have not been empirically evidenced. Whilst there is a range of anecdotal information available, there is no empirical evidence available without undertaking work that falls outside the scope of this work. The financial assumptions for three scenarios are set out in Table 5.6

Table 5.6 Assumptions used in viability assessments

Item	2016 Assumptions	Cost Scenario 1	Cost Scenario 2	Cost Scenario 3
Construction Costs	£2,400 - £2,900 per sq.m	£3,000 per sq.m	£3,500 per sq.m	£4,000 per sq.m
Professional Fees	9-15% of the overall costs of the project, mid-point of 12% applied	12% of build cost	12% of build cost	12% of build cost
Sales Costs and Marketing	1.5% - 3% of the sales value, mid-point of 2.25% applied	£5,000 per dwelling	£5,000 per dwelling	£5,000 per dwelling
Finance/Borrowing Rates	6% of overall cost of the project	9% of overall cost of the project	9% of overall cost of the project	9% of overall cost of the project
Sales Values	£2,300 to £5,800 per sq.m representing range of lower and upper ends of the market	£5,800 per sq.m	£6,000 per sq.m	£7,000 per sq.m
Developers Profit	(20% of sales values)	(20% of sales values)	(20% of sales values)	(20% of sales values)
Land Values	£70k-£90k per hectare for open land; in excess of £2million plus per	£70k-£90k per hectare for open land; in excess of £2million	BLV £250k per hectare	BLV £500k per hectare

	hectare for development value.	plus per hectare for development value.		

5.15 These viability parameters have been applied to three of the previous schemes that within the initial assessment and generated reasonable returns plus affordable housing contribution.

Scenario 1

5.16 Here, the significant difference is that the sales value has increased by nearly £1000 per square metre from the initial report whilst all other major capital streams remain constant. This in effect substantially increases the revenue and therefore increases the value of the discount as well as the developer's margin whether using BLV or OMV.

Table 5.7 Scenario 1 financial viability

Scheme	No of Affordable dwellings	Gross Discount (£'s)	Developer Margin Using BLV	Developer Margin Using OMV
1	20 X 1B/2P 51m2 14 X 2B/3P 64m2	£4,445,120	47.2%	33.6%
2	12 X 1B/2P 51m2 6 X 2B/3P 64m2	£2,310,720	47.1%	32.9%
3	16 X 1B/2P 51m2 16 X 2B/3P 64m2 10 X 2B/4P 78m2 5 X 3B/5P 91m2	£7,134,000	38.6%	16%

Scenario 2

5.17 Here we have increased construction costs at £300 per square metre than we have increased sales values compared to scenario 1 hence the relative margins have reduced but the value of the discount will have increased. BLV has also increased.

Table 5.8 Scenario 1 financial viability

Scheme Name	No of Affordable dwellings	Gross Discount (£'s)	Developer Margin Using BLV	Developer Margin Using OMV
1	34 20 X 1B/2P 51m2 14 X 2B/3P 64m2	£4,598,400	27.4%	18.14%
2	18 12 X 1B/2P 51m2 6 X 2B/3P 64m2	£2,390,400	28.79%	18.95%
3	47 16 X 1B/2P 51m2 16 X 2B/3P 64m2 10 X 2B/4P 78m2 5 X £B/5P 91m2	£7,812,000	19.51%	4.62%

Scenario 3

5.18 The increase in value is primarily offset against the increase in construction costs plus fees. This scenario plays out marginally better than scenario 2 but the increase in the overall discount due to the increase in value reduces the residual profit as a proportion of overall income significantly presents a more pessimistic position than scenario 1.

Table 5.9 Scenario 1 financial viability

Scheme Name	No of Affordable dwellings	Gross Discount (£'s)	Developer Margin Using BLV	Developer Margin Using OMV
1	34 20 X 1B/2P 51m2 14 X 2B/3P 64m2	£5,364,800	29.35%	22.21%
2	18 12 X 1B/2P 51m2 6 X 2B/3P 64m2	£2,788,800	31.81%	22.89%

3	47 16 X 1B/2P 51m2 16 X 2B/3p 64m2 10 X 2B/4P 78m2 5 X 3B/5P 91m2	£8,610,000	19.73%	5.33%

5.19 The percentage of Affordable Housing that should be required of developers agreed after a financial viability assessment must be considered fair and reasonable. However, there is a high demand and need for Affordable Housing in Guernsey as evidence by the SSHI, and so a robust policy is required. If some Affordable Housing is to be delivered through private market development, then ultimately, the decision involves negotiation between the developer and the Authority. Both parties may need to compromise based on various factors to reach an agreement that satisfies both the developer's financial viability concerns and the community's Affordable Housing needs.

5.20 The financial viability assessment provides insights into scheme costs, revenues, and profitability. If the assessment indicates that the project can support a certain level of Affordable Housing without compromising its viability, this could inform the percentage contribution. However, these are desk top exercises and in reality, assumptions can change on-site due to a range of factors. For example, property values can change, construction costs can change and additional abnormal, borrowing rates for finance can change. Therefore, any percentage agreed must take this into account and find a percentage that allows for developer profit with an element of ‘buffer’. Developers have consistently provided feedback about higher construction costs. There is little point having a percentage that few schemes can deliver.

5.21 A single figure for a percentage contribution would make for a clearer policy, rather than a range. The percentage requirement should also provide a reasonable bugger to allow for increasing costs and an ability to still provide Affordable Housing on-site.

5.22 This figure could be reduced down, even to 0, if financial viability assessments can demonstrate it is not viable.

6. The Effectiveness of Policy GP11 in Delivering Affordable Housing

6.1 The current GP11 policy has not been effective in delivering Affordable Housing in Guernsey.

6.2 The most fundamental issue is the threshold of 20 limits the potential sites that can ever be considered for the delivery of Affordable Housing. From the adoption of the IDP (2nd November 2016) to the end of 2023, 1168 dwellings were permitted on windfall sites. Of these 1168 dwellings, 523 dwellings were permitted on smaller sites (1-4 dwellings). 1259 dwellings in total have been permitted over this period, the remaining 91 dwellings on allocated housing sites, and as such windfall has accounted for 92.8% of dwellings permitted. With a threshold of 20, the policy is promoting inefficient use of land on an island of limited land capacity. Feedback from stakeholders confirmed that developers will often try to submit applications for scheme with fewer units to remain under the 20 threshold when more units could have provided.

6.3 Politicians have been told, and developers claim, that the current policy is not viable, given land and construction costs. However, the size of units and the price paid for land have helped to create these problems. Whilst not all sites have been tested in this review, those considered would appear to be viable, within the current Affordable Housing provision requirements if assumptions being made on land value and the proposed property sizes were brought into line with other jurisdictions.

6.4 Whilst there is a recognised need for Affordable Housing in Guernsey, underpinned by a policy and strategy landscape, there is an inconsistent political support for the policy and uncertainty hanging over the current policy leading some developers to hold sites. This has led to a culture where GP11 is being 'blamed' for the lack of housing supply, yet the 600+ housing planning permissions in the pipeline supply of permissions that fall below the threshold for GP11 are failing to be built at a rate that supports housing demand.

6.5 There is some reasonable and accepted criticisms of the way the GP11 policy has been implemented. There is limited guidance accompanying GP11 and the space standards that are approved through planning applications are much higher than the current best practice guidance, which impacts construction cost. There is limited information on site densities, and financial assumptions have not been updated since 2016 when the policy was introduced. This has left 'grey areas' for new schemes coming forward and meant that the States has never had the number of sites coming through the pipeline to establish model covenants and negotiating practices which would streamline application processes.

6.6 Due to the above, GP11 has not had the opportunity to be embedded into the planning process in Guernsey.

7. Research of Common Approaches in the UK and Other Island Jurisdictions

7.1 A detailed review of common approaches elsewhere has been undertaken. The detailed feedback is set out in Appendix B and summarised here.

England

7.2 The principle for land use planning policies to require private market housing to contribute to Affordable Housing has been in place for some 20 years. During this time, policies have evolved and been embedded into the development industry. Generally, policies in England are similar to Guernsey and reflect the requirements of government's National Planning Policy Framework i.e.

- The minimum threshold for contributions is over 10 (over 5 in rural areas); most planning authorities have adopted this with some higher thresholds.
- The contributions seem to centre around 30% (there are lower levels in lower value areas).
- Government currently requires Affordable Housing contributions to be delivered on-site with off-site or financial contributions only as the fallback, subject to a robust viability assessment.
- An overage or clawback is commonplace i.e. a reassessment post completion.

7.3 Affordable Housing contributions are as well as Community Infrastructure Levy (CIL)[14] for other infrastructure (although some planning authorities still secure these via planning obligations).

- A general requirement for a mix of affordable home ownership and affordable rental housing (comprising either both or one of Affordable Rent at 80% of the market rental value and Social Rent at a lower rent calculated by reference to a government formula).

7.4 The commentators point to weaknesses in the current approach given the viability assessment process which can be time consuming, arbitrary to a degree, and contentious, but it does provide flexibility. Recent government direction of travel in England is to limit the role of negotiated routes to Affordable Housing contributions via planning obligations (secured via s106 agreements), towards a charge or tariff-based approach. There are concerns that this will not deliver Affordable Housing at the levels needed, therefore risking a significant reduction in the delivery of Affordable Housing.

[14] CIL is a planning charge, introduced by the government through the Planning Act 2008 to provide a simpler, fair, and transparent means for ensuring that development contributes to the cost of the infrastructure it will rely upon, such as schools and roads.

Wales

7.5 Development plans need to include either site thresholds or a combination of thresholds and site-specific targets for Affordable Housing. Planning authorities need to set site capacity thresholds for residential developments above which a proportion of Affordable Housing will be sought from developers. This applies both to sites specifically allocated in the development plan and to unallocated (windfall) sites and will normally take the form of on-site Affordable Housing contributions. In principle, all new market housing sites, irrespective of site size, can contribute to meeting the need for Affordable Housing.

7.6 Site specific targets are indicative Affordable Housing targets and are established for each residential site and for each mixed-use site, which includes a residential component. For sites which fall below the site threshold, planning authorities may secure commuted sums using a Section 106 agreement. Commuted sums can be used for facilitating or providing Affordable Housing.

7.7 When setting the Affordable Housing thresholds and/or site-specific targets, planning authorities must consider their impact on site viability to ensure residential sites remain deliverable.

7.8 Planning authorities must make provision for Affordable Housing led housing sites in their development plans. Such sites will include at least 50% Affordable Housing based on criteria reflecting local circumstances which are set out in the development plan and relate to the creation of sustainable communities.

Jersey

7.9 As part of its 2011 IDP, the States of Jersey introduced a policy which required 12.5% of units on sites of 9 or more dwellings to be Affordable Housing. Commuted sum payments in lieu of on-site provision was only permitted on ‘sites with limited capacity,’ with this payment required to be equal to the proportion of affordable homes required. This policy was withdrawn in 2014 following feedback from the construction and development industry. A new policy is proposed in the 2023-25 ‘Bridging’ IDP which requires that 15% of units on sites of 50 or more units are to be affordable, with no provision for off-site financial contributions in lieu, unless under exceptional circumstances.

7.10 This policy is to be reviewed annually as a part of the next Jersey IDP (2026-35), with a view to decrease the unit threshold over time. The threshold of 50 units is considerably higher than in other jurisdictions and would be expected to deliver Affordable Housing therefore on fewer occasions. However, it should be noted that in Jersey, Andium Homes, a States-owned company created in 2014 to provide dedicated, ringfenced housing solutions, has a plan to build 3,000 new affordable homes by 2030. Andium Homes is one of the largest providers of affordable homes on the island, alongside the Jersey Housing Company (States-owned).

The Isle of Man

7.11 In granting planning permission on land zoned for residential development or in predominantly residential areas, the department will normally require that 25% of provision should be made up of Affordable Housing. This policy will apply to developments of 8 dwellings or more.

7.12 If a planning approval is granted, which requires this Affordable Housing provision, then the applicant will be required to enter into an agreement under Section 13 of the Town and Country Planning Act 1999 (a 'Section 13 Agreement') where the conditions of such provision are defined. A model Section 13 agreement is available. There are around 6-8 applications per year for over 8 homes.

7.13 Commuted sums can be accepted and would be used where the site for example lends itself to apartments, but the department want houses. The difference between the private market selling price of a comparable or near comparable home based on floor area and the prescribed selling price of the affordable home is charged. A 2-bed house is £175k, a 3-bed house £185k, and a 1-bed apartment is £150k. These are the set selling prices for affordable homes and there can be no variation. At present, selling price on private market for a 2-bed house is £240k. So, the commuted sum for a 2-bed would be £65k less any adjustments for specification items that are higher than the standard design guide of the department.

Considerations for Guernsey

7.14 With the exception of Wales, all of the jurisdictions establish site thresholds. Whilst the States of Guernsey currently has a site threshold at 20 units, it is higher than in the Isle of Man, England, and many areas in Wales, where each local authority set their own threshold. Given the policies elsewhere, site threshold can be much lower, and this would be more applicable to Guernsey given the size of sites that come forward.

7.15 In all cases, on-site housing delivery is the preferred option. This is to ensure that new units are delivered on-site rather than relying on land or a commuted sum, which may never materialise into housing. This report has set out the benefits of having on-site Affordable Housing delivery and experience. Some other jurisdictions would support this.

7.16 Financial tariffs in lieu of Affordable Housing units or land provision are accepted in other comparable jurisdictions, although there is an inherent presumption in favour of on-site provision. Financial tariffs are generally only accepted in exceptional circumstances or on sites providing a number of units below certain thresholds or in certain locations, and there is a wide variance in thresholds between locations. Whilst the mechanisms for determining them may differ, the principle is well established and if Guernsey introduced a financial tariff, it would be in keeping with the policy of other jurisdictions.

7.17 Affordable Housing contribution, and any financial contribution in lieu, are sometimes calculated on a site-by-site basis, taking into consideration factors such as type and location and usually calculated based on unit numbers. Financial contributions are usually expected to be commensurate with the equivalent cost of on-site provision, although in some jurisdictions there is an uplift applied to the calculated contribution if a financial contribution in lieu of on-site provision is made. That may not be feasible or recommended within the States of Guernsey, because of the feedback from developers that only the lower amount may be paid such as £5-10k per unit. In all cases, commuted sum payments are ringfenced to deliver or support Affordable Housing provision and it would be practical to do the same in Guernsey.

7.18 An overage clause is often sought in respect of future profits and Affordable Housing provision, where levels of Affordable Housing fall below policy target. An overage clause could be used as a way to seek some redress where overly pessimistic assumptions about values and/or an overestimation of costs have been used to justify a lower level of Affordable Housing contributions, when the scheme could actually have provided more. Where a developer makes more profit than expected, then a proportion of this unexpected and additional profit would be paid to the States to help fund provision of Affordable Housing that should have otherwise been provided as part of the development.

7.19 Many authorities now deliver Affordable Housing themselves whether through joint venture approaches or development vehicles. These options complement the delivery of Affordable Housing through the land planning system.

8. The Case for Financial Tariffs

8.1 The principle of a payment towards Affordable Housing instead of the provision of land or units as part of a development was considered as part of the drafting of the Island Development Plan (IDP) Affordable Housing Policy GP11. It was not introduced at that time because the necessary legislation was not in place, but the IDP recognises that it could be considered.

8.2 In June 2022, an amendment (no.6) was laid to the Government Work Plan (GWP)[15], proposing that the case for tariff payments in lieu of Affordable Housing was considered once again as a Category 1 status workstream in the GWP. In the same States debate, an amendment (no. 12) was laid seeking to amend the Affordable Housing Supplementary Planning Guidance, 2016 (governing the application of Policy GP11) to give the flexibility for developers to choose the way in which they contribute Affordable Housing so that equal emphasis is given to on-site unit provision, land provision, or off-site provision rather than order of preference.

8.3 The two key reports relevant to consideration of financial contributions are a report entitled, 'The Use of Planning Covenants in the Delivery of Affordable Housing in Guernsey' by Geoff Harrison, November 2012 (known as the Harrison Report 2012)[16] and a report entitled 'The Use of Planning Covenants in the Delivery of Affordable Housing in Guernsey – October 2015 Update' published by the former States Environment Department. [17] This subsequent research confirms that, in terms of considering the principle of financial contributions, the current context on the island compared to that considered at the time of the ERM[18] Report 2004 has not changed significantly. Thus, the findings of the original research and the discussion on the merits or not of using alternative financial payments in lieu of Affordable Housing contributions remain relevant.

8.4 After consideration of a paper titled 'The Case for Commuted Sums in lieu of Affordable Housing' in March 2023, the D&PA supported the principle of removal of a threshold in order to remove complexity and increase fairness. The paper also suggested that it should help to reduce problems of avoidance as some may seek to provide lower density in order to not trigger the policy. This is considered as part of this report and in more depth.

8.5 The D&PA at the time *'requested that consideration be given within this approach [tariffs] to an approach based on land value, even if this was not ultimately preferred.'*

[15] by Deputies Oliver and Helyar (Billet d'Etat X of 2022)

[16] CHttpHandler.ashx (gov.gg)

[17] CHttpHandler.ashx (gov.gg)

[18] In 2004, Environmental Resources Management ("ERM") was commissioned to evaluate the use of planning conditions and covenants against other fiscal measures in order to assist in the delivery of Affordable Housing.

The benefits of financial tariffs in Guernsey

8.6 The overriding view from developers, stakeholders, and all political members involved in this review was that some form of tariff system would be a better mechanism for generating subsidy for the provision of Affordable Housing.

8.7 Feedback from stakeholders confirmed that there were many advantages of introducing a financial tariff.

8.8 Feedback from developers very much supports the replacement of GP11 with the introduction of the option of financial contributions in lieu of on-site provision of Affordable Housing. Many developers agreed that the option of a predetermined financial contribution in lieu of provision of units or land for Affordable Housing would remove the complexity of the existing policy and provide a valuable revenue stream for the benefit of the community, whether this was Affordable Housing or community infrastructure.

8.9 Developers felt that negotiating a financial tariff may expedite the approval process for development projects. This could lead to quicker project implementation as developers can avoid potential delays associated with incorporating Affordable Housing on-site. A tariff system offers developers transparency over what was expected from the outset in relation to the costs it would be obliged to pay. One developer engaged in this review was considering the potential of a site that could have any density ranging from 19 units to 32 and would be interested in reassessing the density of this development once it was clearer whether some alternative mechanism was introduced for contributing to Affordable Housing other than GP11.

8.10 Developers thought that in some cases, the financial tariff option may be more economically viable for developers, allowing them to achieve a reasonable return on investment.

8.11 Stakeholders also recognised the advantages of tariffs for the States of Guernsey. Tariffs can offer the States increased flexibility to direct resources to areas with the greatest Affordable Housing demand or to support specific housing programmes. Stakeholders believed that agreeing financial tariffs from multiple developers would allow the States to accumulate a pool of funds which could be used strategically to fund larger-scale Affordable Housing projects or fund initiatives to improve availability to Affordable Housing such as funding programmes for rental assistance, deposit assistance, or Social Housing rightsizing programmes. Stakeholders recognised that these wider objectives could only be delivered if the financial tariffs were ringfenced to Affordable Housing initiatives.

8.12 **arc4 agrees with the benefits and flexibility that a financial tariff could offer.**

Thresholds for Affordable Housing contribution

8.13 The view of developers was that it would be reasonable to require all new residential developments of 1+ units to contribute to the provision of Affordable Housing but only providing that a simplified process and an ability to make financial tariff in lieu were brought in at the same time. ‘*Any new system to provide options for Affordable*

Housing provision must simplify the process, be straightforward and transparent, provide information and certainty at the appropriate time in the development process and remove barriers to development.'

8.14 **arc4 would agree that a reduced threshold should be applied given the size of sites that historically are brought forward. If a reduced threshold is applied, then more sites will be required to contribute toward Affordable Housing. This, in turn, could enable a reduction in the overall Affordable Housing contribution requirement.**

8.15 **If the threshold is not significantly reduced, then an amended policy will still not deliver Affordable Housing.**

Calculating a financial tariff

8.16 There were mixed views from developers on how to calculate a financial tariff, but developers were clear it must not act as a deterrent to delivery. It must be clear and certain – no room for negotiation and may help to re-set land values. Feedback from developers was that figures of between £4k-£12k per unit would be acceptable as a financial tariff. This is very much at odds with practice elsewhere and would provide very limited opportunity to develop Affordable Housing in Guernsey because the level of funds collected would be so low that there would no chance of meeting anywhere near the level of Affordable Housing required. Many other stakeholders believed that tariffs should be equal to or higher than on-site or off-site provision, to promote on-site provision. Both the Committee *for the* Environment & Infrastructure and Employment and Social Security felt it was right that it must be at least equivalent.

8.17 The D&PA previously considered that the percentage financial contribution level required could be published in the Affordable Housing SPG, allowing the requirement to be changed from time to time to be able to react to markets and changes in economy without a requirement for a full plan review. This approach would rely on the establishment of an agreed average site density for the purposes of calculating financial contribution. This will enable a straightforward calculation of units of Affordable Housing for a development. The average value of an affordable unit would be calculated and published annually. This could be tailored to differentiate between flats and houses and/or green field and brownfield development to encourage or incentivise certain forms of development. The expected level of financial contribution could be easily calculated at the beginning of the development process, which can be taken into consideration in land negotiation and in securing development finance. A disadvantage of the standardised broad-brush approach is that it is unlikely to always maximise Affordable Housing delivery. However, this may be offset by contribution gains through other sites if thresholds were lowered to encompass more developments. The mechanism for financial tariff calculation would be given weight through IDP policy.

Model calculations

8.18 There are many different ways of calculating off-site commuted sums for Affordable Housing, typically involving a combination of factors and methods, often determined by local regulations and policies. In England, there are currently examples of different approaches to calculating financial contributions, but these are not tariffs or levies – they are not mandatory non-negotiable charges. Currently the most common approach to calculating financial contributions is to utilise a residual value approach, which the current GP11 policy reflects; as in Guernsey, this can lead to protracted negotiations dependent upon the respective skills, resources, and flexibility of planners and developers.

8.19 Additional more common examples of alternative commuted payments in lieu of on-site provision have been considered.

Tariff per unit

Advantages

- Simple, transparent
- Clear framework for land value discussions
- Can be adjusted for apartment/house and for value or type of location
- Unit number changes will be captured via planning amendment hence no need for overage (unless viability cases can be made)
- Simplest to forecast aggregate requirements for plan period – just number of homes

Disadvantages

- Doesn't capture variation in value by size/type of homes – starter home and luxury home pay the same
- Doesn't intrinsically capture variation in value by location but adjustment for location possible – brings more complexity but can then be crystallised in policy

East Devon District Council has a published set of commuted sums for when acceptable. The calculator is divided into 6 market areas with a further policy distinction between Affordable Housing policy requirements of a scheme, which will be 25% or 50% depending on location. The tariffs are applied to every unit on the scheme (market & affordable).

Market Area (Egs from table)	25% Policy Target	50% Policy Target
East of Exeter	£12,448	£24,071
Rural	£14,968	£28,958
Coastal	£24,008	£46,496

The calculator is designed to 'calculates the difference between the revenue for a market unit (less an allowance for the developer return and marketing fees) and the revenue for an equivalent Affordable Housing unit, at the relevant % of Affordable Housing.' A viability case can be argued by developers.

Contrast this with the Guernsey developer group meeting which has proposed £4-5k apartments and £8-10k houses across every unit developed.

Cornwall Council

This off-site contribution is paid for each affordable dwelling that would have been required on-site set at a broadly equivalent cost to the developer of providing on-site based upon a 2-bed house, using the on-site percentage required for the relevant tariff zone. The tariff is different in each LHA[19] zone. The amount of off-site contribution payable per dwelling, in each of the three Local Housing Allowance areas is:

- Kernow West £102,000
- Plymouth £92,000
- North Cornwall £102,000

So, in Cornwall these are multiplied by the number of affordable homes that would have been required not by every unit as per Devon.

Brighton & Hove City Council have published a schedule of commuted sum payments for calculating Affordable Housing contributions. Commuted sums are required for sites of 5-9, then first priority is on-site for larger sites based upon 40% on sites of 15 net units or more, and 'where achievable', 30% on sites of between 10 and 14 net units.

Commuted payments are again based on a sum equal to the difference between an Private Market Value (PMV) and Affordable Housing Value (AHV). Brighton & Hove City Council commissioned DVS Property Specialists to undertake the relevant valuations required in 2017. A viability case can be argued by developers.

Commuted sum payments 1 September 2023:

	1-bed flat	2-bed flat	3-bed flat
Zone 1	£185,500	£260,700	£293,000
Zone 2	£162,200	£205,600	£257,200
Zone 3	£118,200	£127,200	£162,600

[19] Local Housing Allowance is the amount of financial contribution an individual can get from Government toward their housing costs e.g. rent

	2-bed house	3-bed house	4-bed house
Zone 1	£265,200	£324,900	£375,500
Zone 2	£257,200	£272,900	£297,100
Zone 3	£165,700	£217,400	£257,200

Floor area

Advantages

- Simple and transparent for developer
- Clear framework for land value discussions
- Floorspace changes will be captured via planning amendment – no need for overage (unless viability cases can be made)
- Can be adjusted further e.g. for type of location as a proxy for value

Disadvantages

- More complex to assess aggregate requirement for plan period – requires assumptions over densities and mix
- Doesn't intrinsically capture variation in value by location but adjustment for location possible – brings more complexity but can then be crystallised in policy

Chichester District Council's 'Planning Obligations and Affordable Housing SPG' (2016) established that a financial contribution in lieu of on-site provision is calculated on a square metre basis of Gross Internal Floor Area ('GIFA' as defined by RICS guidance to include internal communal corridors and means of access but excluding non-saleable rooms within special need proposals, e.g. sheltered or extra-care schemes).

'It secures broadly equivalent financial contributions to the cost of providing on-site Affordable Housing, provides transparency and ensures financial viability taking account of CIL charges and local standards in the Local Plan.'

The analysis in 2016 applied the same tests and development typographies that informed the CIL charging schedule. External consultants (PBA) calculated that a single 'per square metre' contribution rate should be levied across the local plan area between £300 and £350 of total GIFA to be equivalent to the baseline of 30% affordable on-site. A rate of £350 per square metre was adopted and over the 5 years leading up to 2022, the average commuted sum received in lieu of an Affordable Housing unit has been £70,000-£90,000 per unit.

Gross Development Value[20]

Advantages

- By definition captures variation in value by location, size, and type of homes
- Most valuable schemes contribute most
- Simpler than a full residual development appraisal

Disadvantages

- Harder to forecast at the point of planning submission & decision
- More room for negotiation/valuation opinion
- More reliance might be placed on the overage reassessment – negotiation, time, resource for planners and developers
- Most complex to assess aggregate requirement for plan period – requires assumptions over values, densities, and mix

Tunbridge Wells

The calculation takes the Gross Development Value (GDV) of the scheme as evidenced by developers' independent valuation, and takes 36% of this GDV as the estimated land cost. (Estimated land cost assumed to typically represent 30% of the OMV of housing. Servicing and professional fees are estimated to be about 15-20% of the land value (6% of the total cost). Therefore, the financial contribution sought will be 36% of the OMV of the units.)

The new local plan states that the Affordable Housing provision on brownfield sites is 30% and on greenfield sites is 40%. For the number of dwellings to be developed, the required percentage will need to be applied to the estimated cost of providing the equivalent serviced land to the proposed development.

E.g. planning proposal to carry out a development of fifteen identical units on a brownfield land site, with an anticipated sale price of £400,000 per unit

Step 1: Calculate the GDV of the development (15 x £400k) £6,000,000.00

Step 2: Find the residual land value of the development (£6m x 36%) £2,160,000.00

Step 3: Apply the percentage contribution required under the Affordable Housing policy – this site is brownfield hence 30% of the estimated cost of providing the equivalent serviced land to the proposed development (£2,160,000 x 30%)

Commuted sum: £648,000.00 (10.8% GDV)

The calculation does not look at actual costs including works.

A viability case can be made.

---

[20] The Gross Development Value (GDV) of a housing scheme refers to the total anticipated value of the development once completed and fully sold.

Tunbridge Wells take developer profit to be 17.5% and that the Affordable Housing contribution 'should not be reduced from the required Affordable Housing provisions to allow a larger profit than this.'

Westmorland & Furness Council (formerly Eden District Council)

'The council will require a commuted sum payment of 7% of GDV on small sites of six to ten units. The council's viability testing exercise has established that this is an appropriate headline policy position.'

The council will require payment of the commuted sum to be made either: i) In full upon the occupation of the sixth dwelling, or; ii) In stages, relating to the final dwelling houses following the 5th and upon the occupation of each of those dwelling houses. As such, contributions will be paid in equal instalments following the completion of each of the final steps of the development, provided that the full balance due is paid within 12 months of the occupation of the sixth dwelling.

8.20 Developers preferred option was to make a financial contribution to a local housing fund. The amount of the financial contribution based on a fixed fee per unit. £5k/£10k per unit was suggested more than once. One developer felt that over £15k per unit would be a problem.

How much may be raised through financial contributions?

8.21 Table 8.1 and Table 8.2 show the potential financial contribution that could be raised. Table 8.1 uses the current policy requirement and Table 8.2 a reduced level of Affordable Housing required at 20%.

8.22 In both scenarios, the financial contribution is levied exclusively on Affordable Housing units within a development project. Alternatively, financial contributions based on a per unit charge may apply to all residential units within the development, regardless of affordability status.

Table 8.1 Tariff payments compared to developer's discount

Scheme name	Units	GP11 Policy discount*	£8k per unit	£12k per unit	£20k per unit	£30k per unit	£50k per unit	£75k per unit
Scheme 1	6	£639,772	£48k	£72k	£120k	£180k	£300k	£450k
Scheme 2	6	£639,772	£48k	£72k	£120k	£180k	£300k	£450k
Scheme 3	3	£446,428	£24k	£36k	£60k	£90k	£150k	£225k
* Scheme 4	18	£1,899,672	£144k	£216k	£360k	£540k	£900k	£1.35m
* Scheme 5	47	£5,883,819	£376k	£470k	£940k	£1.41m	£2.350m	£3.525m
Scheme 6	20	£2,478,003	£160k	£240k	£400k	£600k	£1m	£1.5m
Scheme 7	6	£638,994	£48k	£72k	£120k	£180k	£300k	£450k
Scheme 8	12	£1,448,994	£96k	£144k	£240k	£360k	£600k	£900k
* Scheme 9	22	£2,381,768	£176k	£264k	£440k	£660k	£1.1m	£1.65m
* Scheme 10	16	£2.392,000	£128k	£192k	£320k	£480k	£800k	£1.2m
Scheme 11	34	£3,863,471	£272k	£408k	£680k	£1.02m	£1.7m	£2.55m
Scheme 12	15	£1,803,090	£120k	£180k	£300k	£450k	£750k	£1.125m

*The gross discount has been calculated by discounting Private Market Values of units by 40%

Table 8.2 Tariff payments compared to developer's discount

Scheme name	Units	20% Affordable	£8k per unit	£12k per unit	£20k per unit	£30k per unit	£50k per unit	£75k per unit
Scheme 1	4	£428,000	£32k	£48k	£80k	£120k	£200k	£300k
Scheme 2	3	£321,000	£24k	£36k	£60k	£90k	£150k	£225k
Scheme 3	1	£148,800	£8k	£12k	£20k	£30k	£50k	£75k
* Scheme 4	12	£1,181,796	£96k	£144k	£240k	£360k	£600k	£900k
* Scheme 5	30	£3,564,072	£240k	£360k	£600k	£900k	£1.5m	£2.25m
Scheme 6	12	£1,348,207	£96k	£144k	£240k	£360k	£600k	£900k
Scheme 7	5	£530,000	£40k	£60k	£100k	£150k	£250k	£375k
Scheme 8	8	£921,772	£64k	£96k	£160k	£240k	£400k	£600k
* scheme 9	15	£1,541,796	£120k	£180k	£300k	£450k	£750k	£1.125m
* Scheme 10	11	£1,787,144	£88k	£122k	£220k	£330k	£550k	£825k
Scheme 11	22	£2,268,575	£176k	£264k	£440k	£660k	£1.0m	£1.65m
Scheme 12	10	£1,066,287	£80k	£120k	£200k	£300k	£500k	£750k

*The gross discount has been calculated by discounting Private Market Values of units by 40%

The potential priorities for spending financial tariffs

8.23 The Government Workplan 2022[21] commits to examine the case for developers to make a tariff payment (financial tariff) in lieu of Affordable Housing. In 2023, arc4 was appointed to support the States of Guernsey develop the potential interventions and priorities for the Guernsey Housing Plan. It recommended that projects should:

- Directly increase access to Affordable Housing tenancies, by providing grant and investment through Joint venture Partnership with Guernsey Housing Association and developers.
- Provide investment that will be returned at a future date.
- Enable investment to be made that will create longer term cost savings.

8.24 Further feedback during this review was that the following types of projects be supported:

Affordable Housing development:

- Support delivery of the Affordable Housing Development Programme.

Schemes to support access to the private market:

- Kick start housing delivery initiatives in the private and intermediate market.
- Schemes to enable improvements in the island's housing stock relating to energy efficiency and physical wellbeing.
- Schemes to support access to the housing market and enable people to live in properties of the size and tenure that meets their requirements and preferences.

8.25 These wider objectives could only be delivered if the financial tariffs were ringfenced to increase the number of or access to Affordable Housing. If tariffs were spent elsewhere, other than housing, this is likely to make it much more difficult to secure payments from developers.

8.26 The arc4 report[22] considered and recommended that if tariffs are agreed, then the funding should be ringfenced into a Housing Investment Fund to invest in projects that increase access to Affordable Housing across Guernsey. The Committees *for the* Environment & Infrastructure and Employment and Social Security, Stakeholders, and developers (with only one exception) also agreed with the need to ringfence funds.

8.27 The Guernsey Housing Association was very supportive of being able to work in partnership with the States of Guernsey to deliver similar types of projects. The GHA was also supportive of *'any scheme that can help improve conditions and promote wellbeing through housing standards.'*

---

[21] Government Work Plan | States Of Guernsey (ourfuture.gg)

[22] CHttpHandler.ashx (gov.gg)

8.28 Legislative amendments will be required to set out when and how Affordable Housing contributions will be made and to allow for ringfencing of financial contributions.

Should financial tariffs replace on-site provision?

8.29 'The Case for Commuted Sums in lieu of Affordable Housing' briefing paper was considered by the D&PA in March 2023, and it set out an initial preferred policy position. It was agreed that:

8.30 Where there is a policy requirement for Affordable Housing to be provided as part of general market housing development, this can be provided through:

- On-site provision as land or units;
- Off-site provision as currently stipulated in Affordable Housing SPG; or
- A calculated and defined financial tariff for Affordable Housing (possible uplift rate applied).

8.31 All options should be equally weighted – i.e., there is no preference or sequential test and no threshold. This would enable developers to choose how to provide their Affordable Housing contribution.

8.32 With the exception of developers, all stakeholders supported all options being retained and financial tariffs introduced. The general view was that whilst thresholds may not need to be in place, smaller sites would deliver a tariff whilst larger sites, on-site provision. The Committee for Employment and Social Security was concerned that tariffs only would potentially inflate land prices as the States of Guernsey and developers would compete for land. The Committee for Employment and Social Security was concerned that if all current options, plus a financial tariff were available without any priority, then developers would always provide a financial tariff.

8.33 Many stakeholders strongly felt that retaining the current options (on-site and off-site) alongside a financial tariff would provide a more balanced approach. *'Combining on-site provision with financial tariffs allows for flexibility. In cases where on-site development is feasible and contributes to mixed communities should be encouraged. However, commuted sums provide an alternative for situations where on-site development may be challenging or impractical.'*

8.34 Stakeholders acknowledged that different communities may have unique challenges and opportunities. Allowing a combination of on-site and commuted sums would enable the States to tailor solutions based on the specific context and priorities of each community. Some developers may prefer making financial tariffs rather than including affordable units on-site. Allowing for both options encourages developer cooperation by providing them with flexibility, potentially leading to more willing participation in Affordable Housing initiatives.

8.35 A number of developers had already assumed that tariffs would replace any future on-site delivery. Developers did not commit to a policy weighting, just that they did not want the 'on-site option'.

8.36 Some of the challenges made of only taking financial tariffs by stakeholders were:

- That financial tariffs may lead to the concentration of Affordable Housing in specific areas, contributing to mono-tenure communities. This can result in the creation of socioeconomically divided neighbourhoods rather than promoting diverse and inclusive communities. This would hinder the creation of mixed income communities.
- Relying solely on financial tariffs may not address the urgent need for Affordable Housing. The cash payments may not translate into an equivalent number of affordable units, and housing prices may continue to rise, exacerbating affordability issues. The financial viability testing of tariffs would support this.
- Additional land will likely need to be sourced if no supply is provided through private market developments.
- The cash amounts negotiated as financial tariffs may not adequately reflect the true cost of providing Affordable Housing. This could result in underfunding of Affordable Housing initiatives, limiting the quality and quantity of units delivered.
- A tariff-only approach would only potentially inflate land prices as the States of Guernsey and developers would compete for land.
- There are many risks to only having a financial tariff and there is support for introducing a financial tariff as part of a range of options to allow maximum flexibility.

8.37 **arc4 supports these findings and agrees with the benefits of on-site contribution and the risk of only accepting financial contributions.**

Additional considerations from the review

8.38 There was support for a reconciliation tool that undertakes a financial assessment prior to planning and again after the delivery of a scheme, so that any assumptions that have not been correct can be reconciled, and an Affordable Housing contribution given, if it was initially deemed unviable.

8.39 Given that most lenders would only provide development finance at 60% of GDV, developers were having to borrow money at higher rates from other sources to ensure construction budgets were fully funded, which left little opportunity to generate higher margins (above 20%) to fund Affordable Housing. A couple of developers thought that anything that helped developers with funding and cashflow would be an effective incentive.

9. Securing Affordable Housing

9.1 Designing an effective covenant to secure Affordable Housing involves careful consideration of various factors to ensure its enforceability, sustainability, and impact.

9.2 Feedback from stakeholders has been that the process of agreeing covenants in Guernsey is cumbersome, lengthy, and not responsive enough, bringing high levels of uncertainty too late in the development process. There is a need for a simple and clear system, which enables developers to determine the Affordable Housing contribution at the outset of the development process.

9.3 If financial contributions are to be secured on smaller sites, then there will need to be a much simpler way to secure payments. Smaller developers will not be equipped to deal with lengthy and protracted legal negotiation and discussion.

9.4 In the context of planning covenant, planning obligation, and planning condition are distinct legal instruments, each serving different purposes and functions.

Planning covenant

9.5 A planning covenant is a legal agreement between a landowner and a local planning Authority, typically contained within a deed, that imposes restrictions or obligations on the use or development of land.

9.6 Covenants can be used to regulate various aspects of development, such as building design, land use, or environmental protection.

9.7 Planning covenants run with the land and bind future owners or occupiers, ensuring that the agreed-upon restrictions or obligations continue to apply regardless of changes in ownership.

Planning obligation (Section 106 agreement in England and Wales)

9.8 A planning obligation, also known as a Section 106 agreement in the UK, is a legally binding agreement between a developer and a local planning authority. Planning obligations are not available in Guernsey.

9.9 Section 106 agreements are negotiated as part of the planning process and are designed to mitigate the impacts of a development on the local area.

9.10 Planning obligations can include requirements related to Affordable Housing provision, infrastructure improvements, public amenities, environmental mitigation measures, or contributions to community facilities.

9.11 Section 106 agreements are typically associated with the granting of planning permission and must be signed before development can proceed.

Planning condition

9.12 A planning condition is a condition attached to a planning permission that sets out specific requirements or limitations that must be adhered to by the developer.

9.13 Planning conditions are imposed by the Authority as part of the planning permission process and are intended to ensure that the development proceeds in accordance with relevant policies and regulations.

9.14 Conditions may relate to aspects such as the timing of development, design standards, landscaping, parking provision, noise mitigation measures, or the preservation of important features.

9.15 Failure to comply with planning conditions can result in enforcement action by the Authority, including the potential for revocation of planning permission.

Options

9.16 Securing a financial contribution through a planning covenant is a less common approach compared to using planning obligations or planning conditions. Planning covenants are typically used to impose restrictions or obligations on the use or development of land, rather than to secure financial contributions like commuted sums.

9.17 The usual recommended way to legally secure a commuted sum in the UK typically involves incorporating it into a planning obligation but this is not available in Guernsey.

9.18 Securing a financial contribution through a planning condition is possible and likely to be the simplest legal mechanism. The process would be for the Authority to include a condition in the planning permission that requires the developer to pay a specified financial contribution for each affordable property within the development. The condition should clearly state the amount of the commuted sum per property and the terms of payment, such as when the payment is due and any instalment arrangements if applicable.

9.19 Planning conditions are legally enforceable, and failure to comply can result in enforcement action by the Authority. If the developer fails to pay the financial contribution, the planning authority could take measures such as halting development work or revoking the planning permission.

Legal advice

9.20 Discussions with the legal team of the States provided informal advice on what would likely be required if tariff payments were introduced, and confirmed that a Policy Letter in addition to the draft IDP would need to be prepared concerning legislative changes once the policy position had been agreed, if tariff payments are to be introduced.

9.21 It has been informally recommended that new Primary Legislation should be developed if funds are to be used to enable greater access to Affordable Housing, rather than specifically building units on the site of which the application is for. This will also need to consider how funds are collected. Legislative amendments will also be required to ensure funds can be ringfenced for this purpose.

9.22 arc4 has been advised that at least 14 months should be factored in to complete the necessary steps to have legislation in place.

9.23 It should be noted that this legal advice is informal and is subject to change depending on the policy position agreed by the States of Deliberation.

10. Promoting Delivery for Developers

10.1 The recommendations set out a policy position for the States of Guernsey to maximise Affordable Housing contributions.

10.2 Developers have been clear that they do not want to work with Policy GP11 and therefore it is likely that any recommendations from this report will not be welcomed by all.

10.3 Any on-site contribution policy will need to be accompanied by a clearly defined implementation policy that supports developers through the process, removing protracted negotiations and introducing model documents, providing clear requirements at a much earlier stage in the process, and a fully resourced planning service, with access to the appropriate skills and knowledge within the States, particularly around consistent viability assessment work.

10.4 Even then, some developers may still not deliver. The States of Guernsey will need to hold a consistent policy line, taking all developers through the GP11 requirements and ensuring they are adhered to.

10.5 It may also be appropriate to consider a range of incentives for policy compliant planning applications. To promote delivery, where developers offer a compliant policy position for Affordable Housing, the States should undertake further research to consider providing additional support which could include:

- Front purchase of Affordable Housing
- Supporting developer finance
- Fast tracking application process with model covenants and clear application process
- A grant shortfall to obtain max contribution with an overage agreement in place
- A reduction in the proportion of Affordable Housing required e.g. in the region of 5-10% to be tested

Alternative delivery options

10.6 The Guernsey Housing Plan sets out plans to introduce a separate delivery vehicle, owned by the States to take on housing, and Affordable Housing delivery is required. This is a tried and tested model in other jurisdictions and has been particularly successful in Jersey. Work is currently underway considering appropriate delivery vehicles and structures as set out in Workstream 2C of the Guernsey Housing Plan – *Investigate the viability of establishing a States-owned Delivery Vehicle for housing developments.*

Appendix A Policy Background for the Introduction of Policy GP11

A.1 Section 5 of the Land Use Land Planning and Development (Guernsey) Law, 2005 states it is the duty of the Strategic Land Planning Group to consider the implications for land planning and use of the strategic, economic, social, and environmental objectives of the States in preparing the Strategic Land Use Plan. [23]

A.2 The States Strategic Land Use Plan is the corporate planning document for the States of Guernsey and sets out the spatial framework for Guernsey for the next 20 years. It provides both general guidance and more specific directions to the Development and Planning Authority (D&PA) in preparing the Development Plans and exercising its other planning functions in order to achieve the States' agreed economic, social, and environmental objectives set out within the States Strategic Plan. The Strategic Land Use Plan is a key instrument in identifying the best way to achieve these States objectives through land use and spatial planning. A major component of this plan's spatial strategy is to assist in the delivery of socially inclusive and diverse communities and neighbourhoods. The Strategic Land Use Plan (2011) (SLUP) established the principal for contributions to Affordable Housing to be delivered through general market housing development.

A.3 The Strategic Land Use Plan (SLUP) was approved by the States of Guernsey in 2011. One of the core objectives of the SLUP is to enable levels of housing availability, quality, and affordability to be improved, enabling people to help themselves become independent where possible. The provision of social and specialised housing provisions is fundamental because it addresses issues of affordability and/or the ability for members of the community to be accommodated, wherever possible, in their existing locality, according to their specific housing needs. Definitions are:

- Social Housing is owned and controlled by the States of Guernsey or a registered housing association or other person and is generally reserved for households on low incomes and includes specialised housing.
- Intermediate Housing is owned or controlled by the States of Guernsey or a registered housing association or other person, and can be offered on a basis that includes part ownership or similar schemes, mainly for households that do not qualify for social housing but cannot meet the full cost of renting or buying appropriate housing on the private market without some form of subsidy.

A.4 Policy SLP17 of the SLUP sets out Affordable Housing requirements. The Development Plans will make provision for a range of social and specialised housing as part of the annual requirement for new homes as set out within Policy SLP13.[24] Appropriate levels of provision of social and/or specialised housing on larger general market sites may be required through the use of planning condition or covenant and established through a specified mechanism. The Strategic Land Use Plan and its

[23] SLUP approved by the States 30th November 2011 (gov.gg)

[24] Policy SLP13 Arrangements will be put in place through the Development Plans to ensure that a minimum 5-year land supply is effectively made to meet the annual requirement for new homes as determined by evidence supported by the housing.

strategic objectives directs and guides the D&PA in the preparation of Development Plans and the detailed land use policies set out within them. The Island Development Plan[25] sets out the land planning policies for the whole of Guernsey in a single document and is legally required to be consistent with the SLUP.

A.5 A draft Affordable Housing policy for Guernsey was originally produced for inclusion in the Island Development Plan. At the time the IDP was drafted, evidence indicated that it was feasible and viable to require on-site provision of a percentage of Affordable Housing on larger general market housing developments whilst meeting the reasonable expectations of all stakeholders involved in the residential development sector. It read:

> Policy CP8 The Environment Department will require proposals for the development of 5 or more dwellings to provide a proportion of the developable area of the site for Affordable Housing (or an equivalent number of units) in line with the following:
>
> - 5 or more dwellings but fewer than 10 - 20%
> - 10 or more dwellings but fewer than 15 - 22%
> - 15 or more dwellings but fewer than 20 - 24%
> - 20 or more dwellings but fewer than 25 - 26%
> - 25 or more dwellings but fewer than 30 - 28%
> - 30 or more dwellings - 30%
>
> Proposals must be consistent with all other policies of the Island Development Plan, noting in particular the requirements in relation to density and mix of units. The application of this policy will have regard to the economic viability of the scheme and the department will use planning covenants to deliver the appropriate level of Affordable Housing. In assessing the proposals, the department will have regard to and be consistent with the provisions of the 'Supplementary Planning Guidance: Affordable Housing'.

A.6 Prior to the Island Development Plan being adopted, the Planning and Building Control Section of the States of Guernsey's Environment Department commissioned Open Plan to provide an independent review of the proposed policy (this would have been GP11) and the associated draft Supplementary Planning Guidance[26] (SPG), advising on:

[25] Island Development Plan 2016 (gov.gg)

[26] Microsoft Word - Final Independent Review of Proposed Affordable Housing Policy for the Guernsey Island Development Plan.docx (gov.gg)

- The robustness of the evidence base and its ability to support the policy both through the Plan consultation, examination, and adoption processes, and in its implementation.
- Any significant omissions, deficiencies, or discrepancies in the preliminary draft policy and SPG.
- Its likely effectiveness in helping to deliver Affordable Housing to meet identified needs.
- Any technical, legal, or practical issues that may hinder effective implementation of the policy.

A.7 The draft policy and SPG were compared against the recommendations set out in a report prepared for the Environment Department in November 2012 by Geoff Harrison BA (Hons), MRTPI, entitled 'The Use of Planning Covenants in the Delivery of Affordable Housing in Guernsey.' The report was scrutinised as part of the review and was considered to provide sound foundations on which to build an effective policy.

A.8 The recommendations were that wording was amended to:

"The Environment Department will require proposals for the development of 5 or more dwellings to provide a proportion of the developable area of the site for Affordable Housing (or an equivalent number of units) in line with the following:

- *5 or more dwellings but fewer than 10 - 20%*
- *10 or more dwellings but fewer than 15 - 22%*
- *15 or more dwellings but fewer than 20 - 24%*
- *20 or more dwellings but fewer than 25 - 26%*
- *25 or more dwellings but fewer than 30 - 28%*
- *30 or more dwellings - 30%.*

Exemption from the requirements detailed above will only be made if clear evidence that such requirements would render development economically unviable is provided and independently verified, and in such cases the Environment Department will negotiate with the developer/applicant to establish an Affordable Housing contribution that can be secured without compromising the viability of the development.

Planning permission for developments to which requirements to provide a proportion of Affordable Housing apply will only be granted when delivery of the required provision has been secured by a legally enforceable commitment.

Affordable Housing provision requirements relating to the development of any part of a site allocated for housing development (or mixed-use development including housing) will be set at the level applicable to the number of dwellings expected to be developed on the whole site. For all sites – including sites not specifically allocated for development, but on which development is considered acceptable ("windfall sites"), proposals must be consistent with:

- *all other policies of the Island Development Plan, including, in particular, requirements relating to density and mix of units; and,*
- *the provisions of the 'Supplementary Planning Guidance: Affordable Housing'.*

NOTE: The Environment Department will normally expect delivery of the appropriate level of Affordable Housing to be secure through Planning Covenants…"

A.9 However, The above policy was tested through a Public Inquiry, resulting in an Inspector Report (CHttpHandler.ashx (gov.gg). With regard to the Affordable Housing Policy, the Inspector recommended to: "Introduce a transition period of three years for the introduction of the affordable housing policy." (Recommendation 25). In light of this recommendation, the Environment Department introduced additional text to the policy to allow for a lower contribution in the first, second and third year after adoption of the Plan by the States. Additionally, during the States debate on the Island Development Plan in 2016 and amendment was agreed to increase the threshold for Affordable Housing delivery from 5 to 20 dwellings. The amended wording read:

"The Development & Planning Authority will require proposals for development resulting in a net increase of 20 or more dwellings to provide a proportion of the developable area of the site for Affordable Housing in line with the following:

- 20 or more dwellings but fewer than 25 dwellings: 26% of the developable part of the site, but reduced to 11% in the first year, 16% in the second year and 21% in the third year after States' adoption of this Plan;
- 25 or more dwellings but fewer than 30 dwellings: 28% of the developable part of the site, but reduced to 13% in the first year, 18% in the second year and 23% in the third year after States' adoption of this Plan;
- 30 or more dwellings: 30% of the developable part of the site, but reduced to 15% in the first year, 20% in the second year and 25% in the third year after States' adoption of this Plan.";The Island Development Plan (IDP) was adopted by the States in November 2016 and is valid for ten years. The Plan includes Policy GP11 which requires Affordable Housing contributions.

The authority will require proposals for development resulting in a net increase of 20 or more dwellings to provide a proportion of the developable area of the site for Affordable Housing in line with the following:

- 20 or more dwellings but fewer than 25 dwellings: 26%
- 25 or more dwellings but fewer than 30 dwellings: 28%
- 30 or more dwellings: 30%

Where the provision of land is not feasible, consideration can be given to the provision of completed units on the site, and there is also some flexibility to consider off-site provision in exceptional circumstances.

There is also flexibility within Policy GP11 to allow the percentage requirement for Affordable Housing contribution to be reduced where it can be demonstrated that the application of the policy, including all provisions for options, would make the development otherwise unviable.

A.10 The requirement can be provided in one of three ways and the following priority order:

- Transfer of land on the subject site to be developed for Affordable Housing by the States of Guernsey or a registered housing association: Where land is to be provided, the percentage required of the developable area will be transferred to the Committee for Employment & Social Security/housing association at nil cost. This was the priority because that access to land was considered a more fundamental barrier to the delivery of Affordable Housing than the availability of funds.
- Provision of units: Where the transfer of land is not feasible, the provision and transfer of completed Affordable Housing units will be considered.
- Off-site provision: In exceptional cases, to meet some or all of the policy requirement, land or units, may be provided. Premises off-site will be considered on a case-by-case basis.

A.11 Affordable Housing is secured through a planning covenant. However, in some instances, the use of planning conditions on any planning permission granted may be the appropriate mechanism to secure Affordable Housing.

A.12 The potential for the provision of a financial contribution towards Affordable Housing in lieu of direct provision of land or completed units is not currently possible.

Appendix B Practice Elsewhere

England

B.1 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as Section 106 agreements or 'developer contributions' are a mechanism, which is used to secure Affordable Housing, as well as other requirements relating to a development site, and to specify the type and timing of this housing. It can be used to secure financial contributions to provide infrastructure or Affordable Housing. A planning obligation can be subject to conditions, it can specify restrictions definitely or indefinitely, and in terms of payments, the timing of these can be specified in the obligation. If the s106 is not complied with, it is enforceable against the person that entered into the obligation and any subsequent owner. As such, Section 106 agreements often require a financial contribution, made prior to the project starting. Unlike the Community Infrastructure Levy which is tariff-based, Section 106 is charged based on the specific needs of the local community. This means that the fees and how they are applied vary widely from place to place. In Scotland, Section 75 agreements are broadly equivalent to Section 106 agreements in England and Wales.

B.2 Many councils in England and Wales operate local planning policies whereby off-site provision of Affordable Housing by way of a financial contribution will only be accepted in exceptional circumstances, due to their priority being on-site provision of units for all suitable larger development sites. Examples of exceptional circumstances in this context include; where housing priorities could be better met in an alternative location, high service and maintenance charges, or that housing association management would be unpractical (due to several small clusters of properties requiring management).

B.3 Generally, policies in England are similar and reflect the requirements of government's National Planning Policy Framework i.e.

- The minimum threshold for contributions is over 10 (over 5 in rural areas); most planning authorities have adopted this with some higher thresholds.
- The contributions seem to centre around 30% (there are lower levels in lower value areas).
- Government currently requires Affordable Housing contributions to be delivered on-site with off-site or financial contributions only as the fallback subject to a robust viability assessment.
- The exception is that if a reduced minimum threshold is used for rural areas, these should be a financial contribution (i.e. 6–11-unit schemes in designated rural areas).
- An overage or clawback is commonplace i.e. a reassessment post-completion.

- Affordable Housing contributions are required as well as Community Infrastructure Levy (CIL)[27] for other infrastructure (although some LAs still secure these via planning obligations).
- A general requirement for a mix of affordable home ownership and affordable rental housing (comprising either both or one of Affordable Rent at 80% of the market rental value and Social Rent at a lower rent calculated by reference to a government formula).
- Concessions or reduced contributions for brownfield sites and for the repurposing of vacant buildings.

B.4 The commentators point to weaknesses in the current approach given the viability assessment process which can be time consuming, arbitrary to a degree, and contentious, but it does provide flexibility. Equally, assessments for then agreeing financial contributions can lead to negotiation.

B.5 Recent government direction of travel in England by the Levelling-Up and Regeneration Act 2023 is to limit the role of negotiated routes to Affordable Housing contributions via planning obligations (secured via s106 agreements) towards a charge or tariff-based approach. This Act has set the framework to be able to replace contributions with an Infrastructure Levy (IL), replacing both s106 & CIL. The proposal is for a mandatory charge based upon Gross Development Value. IL is intended to reduce the use of s106 to the most major developments. However, there are concerns over this too in terms of levels of provision moving forward, but there is no detail (or timescales or details for implementation).

B.6 There are concerns that IL will not deliver Affordable Housing at the levels needed, therefore risking a significant reduction in the delivery of Affordable Housing. Section 106 agreements are envisaged to only be used to support delivery of the largest/most complex sites. However, government proposes to introduce through regulations an ‘in-kind routeway’. This will include provisions for payment of IL in-kind rather than in money, for instance through the delivery of infrastructure (including Affordable Housing) or through making land available. This will enable the delivery of on-site Affordable Housing as an in-kind payment of IL. It is intended that a substantial portion of the value captured through IL will be delivered in this way.

Jersey

B.7 As part of its 2011 IDP, the States of Jersey introduced a policy which required 12.5% of units on sites of 9 or more dwellings to be Affordable Housing. Commuted sum payments in lieu of on-site provision was only permitted on ‘sites with limited capacity,’ with this payment required to be equal to the proportion of affordable homes required. This policy was withdrawn in 2014 following feedback from the construction and development industry. A new policy is proposed in the 2023-25 ‘Bridging’ IDP which requires that 15% of units on sites of 50 or more units are to be

[27] CIL is a planning charge, introduced by the government through the Planning Act 2008 to provide a simpler, fair, and transparent means for ensuring that development contributes to the cost of the infrastructure it will rely upon, such as schools and roads.

affordable, with no provision for off-site financial contributions in lieu, unless under exceptional circumstances. This policy is to be reviewed annually as a part of the next Jersey IDP (2026-35), with a view to decrease the unit threshold over time. The threshold of 50 units is considerably higher than in other jurisdictions and would be expected to deliver Affordable Housing therefore on fewer occasions. However, it should be noted that in Jersey, Andium Homes, a States-owned company created in 2014 to provide dedicated, ringfenced housing solutions has a plan to build 3,000 new affordable homes by 2030. Andium Homes is one of the largest providers of new homes on the island, alongside the Jersey (States-owned) Housing Company.

The Isle of Man

B.8 The negotiator for Affordable Housing was previously on the developer side and those skills and knowledge really help.

B.9 Affordable Housing on the island consists of two types of tenure, first-time buyer and public sector homes for rent.

First-time buyer

- First Home 'Fixed', targeting those on lower incomes, with fixed price units on new developments; and
- First Home 'Choice', with an increased income ceiling and house purchase price to help those wishing to buy on the private market.

Public sector rental

B.10 The c. 6,200 general needs and sheltered public sector homes are owned and operated by 15 local housing authorities, including 5 sheltered housing providers. Over £77 million of capital investment has been made into public sector housing since 2013, much of it on redevelopments and replacements, which means that whilst the net increase in stock has been 66 additional properties, the nature of stock i.e. size and layout has changed significantly, with a focus on a reduction in the number of larger properties and an increase in apartments and smaller family houses reflecting changing need.

Delivery of Affordable Housing through the planning system

B.11 In granting planning permission on land zoned for residential development or in predominantly residential areas, the department will normally require that 25% of provision should be made up of Affordable Housing. This policy will apply to developments of 8 dwellings or more.

B.12 If a planning approval is granted, which requires this Affordable Housing provision, then the applicant will be required to enter into an agreement under Section 13 of the Town and Country Planning Act 1999 (a "Section 13 Agreement") where the conditions of such provision are defined. A design guide is available about design standards and floor areas for public housing for rent or first-time buyers. A model Section 13 agreement is available.

B.13 There are around 6-8 applications per year for over 8 homes.

B.14 The department holds a register for affordable home ownership under the House Purchase Assistance Scheme with 170 currently on the register. The needs of this is used to feed into the development application. Development is pepper potted and developers support that now and Affordable Housing looks like market housing.

B.15 If developers do not provide the percentage of the type/size recommended then planning will not be approved. On-site provision is preferred, and a shared equity loan product is negotiated, targeting those on lower incomes with fixed price units on new developments.

Calculating commuted sums

B.16 Commuted sum calculations are always quantified in Section 13 agreements in case the department cannot bring any purchasers forward to buy the units. The difference between the private market selling price of a comparable or near comparable home based on floor area and the prescribed selling price of the affordable. A 2-bed house is £175k, a 3-bed house is £185k, and a 1-bed apartment is £150k. These are the set selling prices for affordable homes and there can be no variation. At present, selling price on private market for a 2-bed house is £240k. So, the commuted sum for a 2-bed would be £65k less any adjustments for specification items that are higher than the standard design guide of the department. For example, air source heat pumps where gas fired heating is the design standard.

B.17 Commuted sums are only spent on new Affordable Housing as in loans under the Shared Equity Purchaser Assistance scheme or the maintenance of public sector housing.

B.18 Shared Equity Purchaser Assistance scheme-potential purchase can borrow 4x income. The shortfall is funded through a loan by the department up to a maximum of £45k.

B.19 The department will accept off-site contributions, but it is not common place, mainly because the option for Affordable Housing is for sale. Monies collected from commuted sums go into a housing reserve fund which is used for the development of or purchase of additional affordable homes.

B.20 Social rented units are not secured on-site through the policy, only first-time buyer schemes. This is a political directive. If no one can be nominated to purchase property, they can go to a housing authority where the development is and ask the housing authority to purchase them for the set price. They can then rent them out.

Appendix C The Policy Background for Consideration of Financial Tariffs

C.1 The principle of a payment towards Affordable Housing instead of the provision of land or units as part of a development was considered as part of the drafting of the Island Development Plan (IDP) Affordable Housing Policy GP11. At that time, as now, there was no legislative provision for commuted sum payments of this kind. Independent review of the proposed Affordable Housing Policy in 2015[28] recognised the limitations of the legislation and the ability to 'ringfence' sums collected for Affordable Housing provision and that, in order not to delay the whole IDP process, this needed to be considered subsequent to the IDP being approved and in the light of actual experience of implementing its Affordable Housing policy. The independent review recommended that the situation should be kept under review. This is reflected in the Affordable Housing Supplementary Planning Guidance, which was approved alongside the IDP in 2016, and says:

"The potential for the provision of a financial contribution towards Affordable Housing in lieu of direct provision of land or completed units is not currently possible. The authority will continue to investigate the potential for financial contributions and will bring forward suitable amendments to the Affordable Housing policy and supplementary planning guidance in light of any changes to the existing legal framework relating to Affordable Housing as considered appropriate by the States of Guernsey."

C.2 As well as the above, as part of the States debate of the IDP in 2016, an amendment (no.8) was lodged[29] to examine the case for an alternative requirement for developers to make a tariff payment equivalent to the value of the land which Policy GP11 would require to be set aside for Affordable Housing. However, because a later successful amendment raised the threshold at which Policy GP11 applies, this would have related only to sites proposing 20 or more units.

C.3 In June 2022, an amendment (no.6) was laid to the Government Work Plan (GWP)[30], proposing that the case for tariff payments in lieu of Affordable Housing was considered once again as a Category 1 status workstream in the GWP. It directed the Development & Planning Authority (DP&A) to:

"Examine the case for developers to make a tariff payment (financial contribution) in lieu of Affordable Housing contribution to be set aside for Affordable Housing and to report back to the States by the end of 2022 with proposals, if appropriate, for a system of contributions schedules or standard charges (financial contributions) in lieu, including the identification of any necessary legal provision or changes to land use policy."

---

[28] Independent Review of Proposed Affordable Housing Policy for the Guernsey Island Development Plan and associated Supplementary Planning Guidance-February 2015 (incorporating interim reports submitted in October 2014 and January 2015)

[29] By deputies Dorey and Fallaize. This was agreed by the States and directed the Development & Planning Authority, in consultation with the Committee for Employment & Social Security and Committee for the Environment & Infrastructure.

[30] By deputies Oliver and Helyar (Billet d'Etat X of 2022)

C.4 In the same States debate, an amendment (no. 12) was laid seeking to amend the Affordable Housing Supplementary Planning Guidance, 2016 (governing the application of Policy GP11) to give the flexibility for developers to choose the way in which they contribute Affordable Housing so that equal emphasis is given to on-site unit provision, land provision, or off-site provision rather than order of preference.

C.5 Although legal advice has subsequently confirmed that changes to Supplementary Planning Guidance ahead of a related policy change cannot have effect, the amendments, and the level of support for them, gives a clear indication of a States wish to examine the options for Affordable Housing contribution.

C.6 In 2004, Environmental Resources Management (ERM) was commissioned to evaluate the use of planning conditions and covenants against other fiscal measures in order to assist in the delivery of Affordable Housing. This research has therefore already examined in detail the potential pros and cons of the financial payments option in Guernsey against a range of other methods. Although the report is dated 2006, the majority of the findings are still applicable when considering the case for the principle of an option for a financial payment in lieu of providing Affordable Housing contributions.

C.7 The ERM report considered a number of options for fiscal measures including standard charges, development tariffs, impact fees, and land betterment taxes, which could potentially be used to obtain a financial contribution instead of Affordable Housing land or unit contributions. The report concluded that impact fees would not be a suitable mechanism as they require fees to be calculated on a case-by-case basis relating to the specific impacts of a site development and costs related to their mitigation, which would have to be calculated for each individual development.

C.8 Land Betterment Taxes apply a tax on the landowner, levied on the uplift in value of land as a result of gaining planning permission. Superficially, this mechanism appears simple and has some merit but in practice it requires complex systems of valuations and exemptions and suffers from substantial avoidance. Anecdotal evidence suggests that in Guernsey, landowners' expectations of residual land values have not been tempered by the requirements for Affordable Housing on some sites which has led to viability challenges. Similar to impact fees, this requires calculation on a case-by-case basis and involves complex valuations. Land Betterment Taxes have been introduced in other jurisdictions, such as the UK, and have been proven not to work. Therefore, the ERM report did not recommend this approach.

C.9 Development tariffs are an extension of a standard charges scheme and are normally used to secure contributions to meet general planning policy objectives. This could include Affordable Housing, but usually wider community infrastructure and services needed to support development generally on the island, and normally covers education, transport, open space, and health objectives as well as Affordable Housing. Generally, a development tariff approach would require implementing a full development tariff system, requiring establishing the potential yield and the cost of meeting community need, analysis of these taking into account the timeframe of the plan period, and setting the charge level for different uses and areas. Developing and establishing a development tariff system is a complex and time-consuming exercise.

C.10 The ERM report concluded that it was ‘premature to give further consideration to introducing a full-blown scheme’[31] of development tariffs. However, the ERM report found that the use of planning conditions and planning covenants to secure direct provision of Affordable Housing in combination with a system of standard charges (financial contributions in lieu) set out in a policy, could provide a clear, fair, transparent, and accountable way forward, combined with the benefit of a consensus approach and flexibility of an at least partly negotiated system.

C.11 The two key reports relevant to consideration of financial contributions are a report entitled ‘The Use of Planning Covenants in the Delivery of Affordable Housing in Guernsey’ by Geoff Harrison, November 2012 (known as the Harrison Report 2012)[32] and a report entitled ‘The Use of Planning Covenants in the Delivery of Affordable Housing in Guernsey - October 2015 Update’ published by the former States Environment Department.[33] This subsequent research confirms that, in terms of considering the principle of financial contributions, the current context on the island compared to that considered at the time of the ERM Report 2006 has not changed significantly. Thus, the findings of the original research and the discussion on the merits or not of using alternative financial payments in lieu of Affordable Housing contributions remain relevant. Arc4 would agree with this.

C.12 In examining the case for an alternative financial payment more generally, the research indicates, and the ERM Report and Harrison Report conclude, that this mechanism could be applied to smaller residential development sites to capture contribution to Affordable Housing provision from smaller sites which would acknowledge the practical issues of on-site provision on such sites.

C.13 The principle of a payment towards Affordable Housing instead of the provision of land or units as part of a development was considered as part of the drafting of the Island Development Plan (IDP) Affordable Housing Policy GP11 but was not introduced.

C.14 In June 2022, an amendment (no.6) was laid to the Government Work Plan (GWP)[34], proposing that the case for tariff payments in lieu of Affordable Housing was considered once again as a Category 1 status workstream in the GWP. In the same States debate, an amendment (no. 12) was laid seeking to amend the Affordable Housing Supplementary Planning Guidance, 2016 (governing the application of Policy GP11) to give the flexibility for developers to choose the way in which they contribute Affordable Housing so that equal emphasis is given to on-site unit provision, land provision, or off-site provision rather than order of preference.

[31] The Use of Planning Covenants and Related Measures in Guernsey – ERM, 2006

[32] CHttpHandler.ashx (gov.gg)

[33] CHttpHandler.ashx (gov.gg)

[34] By Deputies Oliver and Helyar (Billet d’Etat X of 2022)