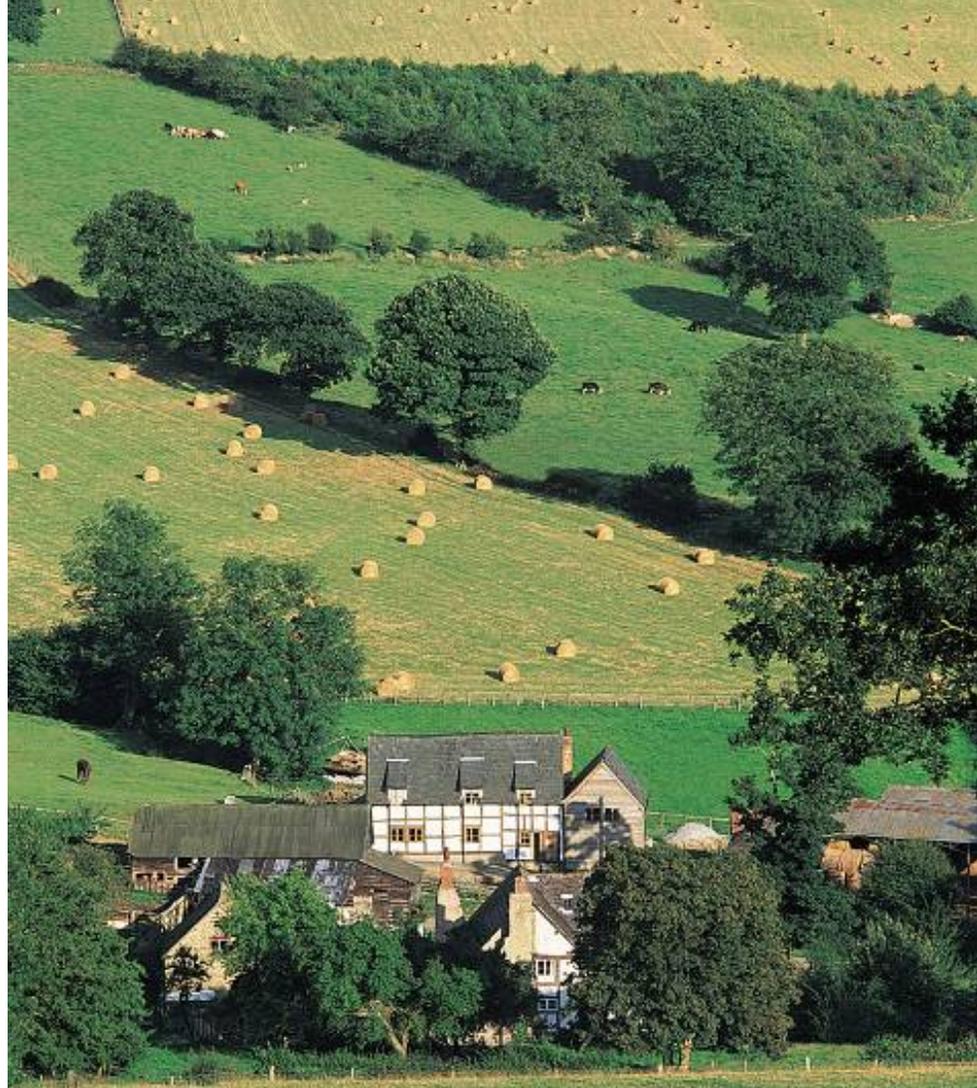


T R I B A L

The allocation of land for
affordable housing through the
planning system

Liz Shiel 29th January 2007



Services for life

The brief: the main questions

- Should the planning system in Scotland do more to ensure that sufficient land is available for affordable housing ?
- What measures could the planning system take to secure the longer term affordability of affordable housing e.g. more extensive use of title conditions/ burdens etc ?
- What value might there be in introducing a separate planning Use Class for affordable housing?
- More specifically:
 - What benefits and potential negative consequences would it have ?
 - What would the practicalities be of introducing and operating a separate use class?
 - How effective would it be in
 - safeguarding sites for affordable housing?
 - ensuring retention of housing units as part of affordable supply?
- What course of action do you recommend ?

- The supply of land for affordable housing is an issue in some parts of Scotland, but not everywhere
- RSLs have most difficulty finding sites in areas of high land values - in and around Edinburgh and in the most scenic and sensitive parts of rural Scotland.
- Quota policies have been introduced by most local authorities where access to land is an issue for RSLs
- In many cases, these policies have not yet delivered a significant supply of affordable housing but this is largely due to short term pipeline issues, rather than a failure of the policy mechanism itself.
- The shortage of sites of affordable housing is often a consequence of the larger problem of the delivery of sites for housing, in which infrastructure issues play a key role

- The long lead in times required for policies to come through the local plan system
- Reliance on open market delivery of large sites - market weakness can slow delivery
- Small sites - especially common in rural areas - fall below the policy threshold
- Large sites are delayed by complex infrastructure negotiations, while small sites are unable to bear the costs of such infrastructure
- Some policies not sufficiently robust, and have been challenged in the courts or at local plan inquiry, thus delaying their implementation
- Some local authorities have not enforced their policies rigorously.

- It is our view that the quota system must be the backbone of the affordable housing land supply in Scotland.
- Without it, it would be very difficult to secure the mixed communities which are an important and worthwhile objective of the Executive
- A system which relied solely on separate allocations might cost significantly more and be subject to challenge at local plan inquiries:

- We discuss a number of options as to how quota policies and delivery might be improved
- the most radical option would be a body similar to the former New Town Development Corporations or English Partnerships which would acquire, prepare and deliver land for housing
- We also recommended that SPP3 should be revised to consider the adequacy and effectiveness of the land supply for affordable housing, and in particular, its timing
- We were pleased to see that Malcolm Chisholm has now announced that that will happen.

Separate allocations: the disadvantages

- key disadvantage is social segregation, counter to the Scottish Executive's objectives for mixed communities.
- funding of infrastructure - often met by the private sector through quota policies - would be potentially an additional cost for the public purse.
- Lower values for land for affordable housing as proposed in PAN 74 would lead to challenges at local plan inquiries. Local residents are also more likely to object to allocations.
- If open market values were applied to these sites it would be very costly for the public purse, unless there was a generous supply of sites which were unattractive to the private sector – a questionable policy approach.

Separate allocations: a possible role

- However , we do believe that separate allocations of land for affordable housing have a part to play:
 - to address a short term problem in the delivery of sites through quota policies;
 - In the most fragile and vulnerable environments in rural areas, where sites will always be scarce and too small for quota policies to be applied effectively.
- Options which might make separate allocations more acceptable to landowners and more cost effective and accessible to RSLs were considered:
 - the allocation of small separate sites for AH within larger allocations of land for housing in the same ownership
 - and in rural areas, the allocation of separate small sites, for AH, linked with other sites under the same ownership for open market housing.

How might that work ?

- In areas where RSLs are having difficulty accessing land, it may be appropriate to allocate small separate sites within larger allocations of land for housing in the same ownership.
- This would make RSLs independent of private sector delivery and phasing, provided the landowner had agreed to the sale, and provided that they were not reliant on private sector enabling development to provide infrastructure.
- Similarly, in rural areas, landowners will in some cases be more willing to release a site for affordable housing where there is some kind of quid pro quo and separate sites under the same ownership could be allocated for open market and affordable housing.

The arguments for and against a Use Class

- Not clear from the debate why a use class is being sought rather than separate allocations for affordable housing.
- Advantages claimed for the use class were generally advantages which would also be achieved with separate allocations – i.e. an unambiguous policy framework which sets aside land specifically for the purpose of affordable housing.
- Some who argued for a use class felt that it might help to secure the long term affordability of houses. But they had not given detailed thought as to how a use class would be enforced to secure longer term affordability, or to the implications for the planning system.

Arguments against a Use class

- Option of an affordable housing use class appeared unattractive to us and to almost all our interviewees:
 - Difficult to define ‘affordable housing’ in a way that would be robust enough to withstand the tests of planning law.
 - Within a broadly defined use class, land value issues would lead to a preference for the delivery of LCHO on such sites rather than social rented housing
 - No clear advantages over the definitions which may already be applied through Section 75 agreements and through RSLs’ ability to retain housing as affordable in perpetuity, where they have charitable status or where pressured market status has been granted.
 - Difficulty involved in the planning authority policing affordability in perpetuity through enforcement action – planning system is not well resourced or staffed to take on an additional enforcement burden of this kind.

Arguments against a use class

- The possibility of a certificate of lawfulness after ten years.
- might 'fix' the tenure and status of the area more rigidly than in social rented housing estates, which may develop into mixed tenure estates as a result of right to buy.
- other better options to secure long term affordability
 - Homestake
 - community land trust mechanisms
 - existing models such as the use of resale price covenant schemes linked with Section 75 conditions.
- It is already possible to constrain the sale of owner occupied housing so that it may only be sold at a discount to full market value.

Arguments against a use class

- planning authority is not well suited to ‘police’ whether sales are being made to people who meet the criteria – a scheme which is operated by an RSL or a community land trust has considerable advantages.
- planning permission would be needed
 - For an open market sale where a purchaser could not be found who met the criteria;
 - To allow a right to buy sale to take place.
- An affordable housing use class would remove the universal right to buy, and make it conditional to the consent of the planning committee

- **Public sector land**
- Scottish Ministers to review the possibility of the transfer of public sector land at below market value in pressured areas
- Key landholdings are those relating to the education and health portfolios.
- However imposing affordable housing quotas on public sector land simply moves the cost of housing subsidy from one budget area to another,
- **Community land trusts**
 - A way forward in rural areas ?
- **Supporting landowners to build for affordable housing or mid rent**