

# Supplementary Guidance: Affordable Housing

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## 1. Status of Supplementary Guidance

This Supplementary Guidance (SG) forms part of the Development Plan and is a material consideration in the determination of planning applications.

The SG expands upon the following Aberdeen Local Development Plan policies:

- Policy H5 – Affordable Housing

## 2. Introduction to Topic

Housing is a basic human need and it is important that everyone has access to housing of a reasonable quality that is affordable to those on modest incomes. There are severe affordability pressures in Aberdeen and the Aberdeen Housing Market Area, and there are chronic levels of housing need identified by the Housing Need and Demand Assessment. Given the affordability pressures of housing in Aberdeen, market housing will be unable to meet the needs of all; therefore, through the use of planning policy, there is a need to deliver affordable housing.

Local Development Plan Policy H5 sets out the overall requirement within developments across Aberdeen as 25% of all units.

The process of securing affordable housing or contributions towards the provision of affordable housing requires negotiation between the Council and developer. These negotiations at the time of the application or pre-application discussion will determine the actual requirement and the form of provision. These negotiations will consider any exceptional servicing costs for the development, and the impact of the viability of the development.

In addition to affordable housing, Scottish Planning Policy (SPP) and PAN 2/2010 set out details of Specialist Housing. Specialist Housing is housing identified for particular groups such as Gypsy and Travellers, the elderly, students etc. This document sets out Council guidance on how each type of Specialist Housing is considered, and its relationship with affordable housing.

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### 3. Affordable Housing Provision

Affordable housing requirements may be delivered in three ways:

1. **On-site (Preferred Option);**
2. **Off-site; and then,**
3. **Commuted Payments.**

To build sustainable mixed communities, it is the aim of the Council to see the delivery of affordable housing requirements on-site. Depending on the scale of development the Council may however, accept other delivery mechanisms in order to achieve the maximum level of affordable housing possible.

Off-site provision involves a developer providing an equivalent number of affordable units on another site. While off-site provision can be a useful mechanism it can also pose significant risks such as the creation of non-mixed socio economic communities which would run contrary to Scottish Planning Policy. More locally it can add additional pressure on certain services within an area and reduce the availability of suitable sites for Registered Social Landlords (RSL's). To help alleviate some of these concerns off-site provisions will only be accepted in instances where the Council deems it acceptable and where it satisfies the criteria set out in the Off-Site Provision section of this Supplementary Guidance (see Section 4.1).

Overprovision or banking of affordable housing on a previous development cannot discount the required contribution for the submitted application unless agreed in writing in advance of the submission of the application. In very limited circumstances on sites where the Council agrees that both onsite and offsite provision of affordable housing is not possible, a commuted sum may be negotiated between the developer and the Council. This will be done based on the values set out in Table 1 in Section 4.8.

### 4. Possible Categories of Affordable Housing

There are a number of different types of affordable housing, (see below). The most appropriate type of housing should be guided by the Council's Local Housing Strategy and through discussions with the Council's Housing Team. Delivering social rented housing is the Council's preference for affordable housing.

Through the Housing Need and Demand Assessment it has been demonstrated that intermediate housing will have a significant role to play in meeting housing need.

In instances where public subsidy is required to deliver the affordable housing there should always be an alternative option available in case of circumstances where subsidy is not available.

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## 4.1 Preferred Hierarchy of Affordable Housing Types

### 1. **Social Rented**

Housing provided at an affordable rent and usually managed by a Registered Social Landlord (RSL) or the local authority.

### 2. **Intermediate Housing**

- Shared Ownership - The owner purchases part of the dwelling and rents the remainder usually from a RSL. The owner can buy tranches of 25%, 50% or 75% of the property.
- Shared Equity - The owner purchases part of the dwelling, with the remaining stake usually held by the Scottish Government. Unlike shared ownership, the owner pays no rent for the equity stake which is retained by the Scottish Government.
- Discounted Low Cost Sale (Low Cost Home Ownership) - a dwelling sold by the developer at a percentage discount of its open market value to households in the priority client group determined by the local authority.

A legal agreement is used to ensure that subsequent buyers are also eligible buyers and the property remains affordable in perpetuity. Benchmark values are listed in Table 2 (Section 3).

- Housing without Subsidy (Low Cost Entry Level) - Nonsubsidised affordable housing is likely to take the form of entry level housing for sale, some built at higher densities and with conditions attached to the missives designed to maintain the houses as affordable units to subsequent purchasers. Homes delivered without subsidy may be considered to fulfil part of the overall affordable housing requirement where it can be clearly demonstrated that they will meet the needs of, and be affordable to, groups of households identified through the Housing Need and Demand Assessment.
- Mid Market Rented Accommodation - Rented accommodation that is rented at a discounted rent level at or below the Local Housing Allowance (LHA), which is set by the Government. The rental price will be a maximum of 100% of the local housing allowance, but will be for the Council, and / or RSL to agree.

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This will usually be managed by a Registered Social Landlord but other housing companies can be considered when they are able to satisfy the Council that they will let and manage the properties in away similar to a RSL reflecting their use as affordable housing.

### **3. Off-Site**

The provision of the affordable housing in one of forms detailed in 1 and 2 above on an alternative site. Further information is provided in Section 4.6.

### **4. Other Options**

At this point in time these are the only models for delivery of affordable housing that have been identified. However, this does not rule out the opportunity for new models for affordable housing delivery to be developed and meet the affordable housing requirement. Other options must be supported by the City Council.

#### 4.2 Affordable Housing Provision for Developments of less than 20 units

For developments of less than 20 units the provision of affordable housing may be on-site, off-site or commuted payments. It is accepted that for development of less than 5 units the management of social rented accommodation may be more difficult. The delivery of other categories of affordable housing is not affected by the number of units and would be supported on-site.

#### 4.3 Affordable Housing Provision for Developments of 20 units or more

For developments of 20 units or more the expectation is that the affordable housing contribution will be delivered on-site. With a target of 25% this will yield 5 affordable units from 20 units, which would allow for effective management of any category of affordable housing that is to be provided and integrates new affordable housing into new development.

#### 4.4 Instances when Contributions may be Reduced

The Council's policy on affordable housing across the entire administrative area is clear and has stood at 25% since 2008. As such, all developers will have been aware of this requirement prior to purchasing or entering into agreements to purchase development sites.

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The Council nevertheless recognises that as part of delivering new developments there is also a need to provide or make financial contribution towards major new infrastructure, such as schools, drainage, water and roads.

Where a developer can demonstrate that there are exceptional costs, over and above that expected from most developments, the requirement for affordable housing or developer contributions may be reduced. This will only be acceptable where the cumulative contributions on the overall development makes the site unviable and these costs could not have reasonably been determined.

In order to assist the development industry in incorporating other costs into the land valuation, a list of developer contributions has been prepared and is contained within the Supplementary Guidance on Planning Obligations. Therefore, it is expected that these requirements will have been planned into the development and will not normally be seen as exceptional costs.

#### 4.5 Developer Viability Statement

In order to help the Council reach a view on the viability of the development, the developer will be required to provide a financial appraisal for the development that provides detailed financial information on the development costs and viability. To aid this process a checklist has been included in Appendix 2. Negotiations on viability will not be considered without the inclusion of supporting documents.

#### 4.6 Off-Site Provision

In specific incidences where a developer can prove that on site provision of Affordable Housing is not viable, and the Council is in agreement, an off-site provision may be considered. In such cases discussions on offsite delivery must be made in advance of any application being made due to the complexity of legal and planning issues.

Where the developer proposes an off-site provision the alternative site must be:

1. a site where housing is supported in principle\*,  
(\* an allocated residential or mixed use site in the Aberdeen Local Development Plan, a brownfield site suitable for residential or mixed use, or a site where planning permission has been granted for a residential or mixed use development.)

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2. located within the same submarket area as the development site (defined in Appendix 3). It will be for the Council to decide if an alternative site outside the submarket area is acceptable,
  3. located within an area that does not have a concentration of affordable housing. It is the aim of the Council and the Scottish Government to create sustainable mixed communities and this aim is reflected in policy. It will be for the Council to determine if there is a concentration, therefore a developer wishing to provide offsite contributions must contact the Housing Service in advance of making an application.
  4. where the developer is not constructing the affordable housing the site should be transferred to the Council or a Registered Social Landlord at an agreed or nil value. The site must be transferred to the RSL or the Council prior to the delivery of any units on the primary site. Only that portion of the site necessary to effectively deliver the contribution need be transferred. The transferred land must be accessible, serviced, and readily developable. It will be for the Council or an RSL to determine its acceptability.
  5. Where the developer is actually delivering the affordable housing on the secondary site, the release of market housing on the primary site will be linked to the delivery of affordable housing.
  6. While the Council have not in practice asked for an affordable housing contribution from stand-alone affordable housing sites, 'secondary sites' for delivery of affordable housing are not deemed to be stand alone. The removal of affordable housing from the primary site can increase the value of that site and the percentage of market housing. The delivery of affordable housing on the secondary site can also prevent such sites from coming forward independently. The percentage of affordable housing is therefore based on the total of all units to be delivered on both sites and the affordable housing delivered on the secondary site does not account for any existing or future affordable housing requirement from that site.

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#### 4.7 Overprovision and Banking

Where it is agreed in advance, the overprovision of affordable housing units may be banked by a developer against the requirement to provide affordable housing on future developments.

In such cases the following criteria must be satisfied:-

1. The entire affordable housing delivery must be in the form of built units, commuted sums will not be accepted except in the case of part units.
2. The units must be delivered in the same housing market area, unless agreed otherwise with the Council.
3. Where the mix of flats and/or houses changes on a future development, for which banked units are being used, the difference between the commuted payments for flats and houses will be due to make up the difference.
4. The banked units must be used within seven years.

The developer banks units at their own risk, if the requirement for affordable housing reduces or is removed, there will be no form of compensation due to the developer, agent, landowner or any other party.

#### 4.8 Commuted Payments

In exceptional circumstances where the provision of affordable housing on site or offsite is not viable or feasible and the Council agree, a commuted sum may be paid.

Where commuted payments are accepted in place or in conjunction with the provision of affordable housing, the figure for commuted sums will be set by the Council and reviewed on a five year basis at the time of reviewing this Supplementary Guidance. The figures will be calculated based on three sub-market areas, as per the map in Appendix 3, and set out in Table 1 below. Where the change in values is nil, or deemed by the Council to be insignificant, the figures and Supplementary Guidance will remain in effect until the next Local Development Plan review.

Table 1 - Commuted Sum by Sub-Market Area and Unit Type

<b>Commuted Sum by Sub-Market Area and Unit Type</b>		
	Flats	Houses
<b>1 – Suburban</b>	£ 35,000	£ 47,500
<b>2 – Prime</b>	£ 55,000	£ 85,000
<b>3 – Urban Core</b>	£ 38,000	£ 50,000

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The breakdown of commuted payments in terms of flats and houses from Table 1 will be determined by the percentage breakdown of market houses and flats across the site.

#### 4.9 Disagreement over the Commuted Sums.

In instances where the applicant does not agree with the commuted figure from Table 1, an individual site valuation approach can be pursued, at the sole cost to the developer. This valuation will be carried out in accordance with PAN 2/2010 or revised guidance by means of an independent valuer or the District Valuer Service, jointly appointed by the developer and the Council.

### 5. **Delivery of Affordable Housing**

The most appropriate mechanism for delivering affordable housing will vary, and the Council will seek to be flexible, working closely with developers, RSLs and others to maximise the number and quality of affordable homes provided.

For the delivery of social rented accommodation the Council recommends that developers enter into agreements or discussions with RSLs before planning applications are submitted. By doing this applications are more likely to progress smoothly.

There are two methods in which the delivery of affordable housing can be delivered on-site: integrated development and transfer of land. The Council do not have a direct input into the valuation of units where a unit is transferred as this is agreed between the two parties involved.

#### 5.1 Integrated Development

Once an agreement is reached between a developer and RSL or the Council, the developer will build the units of affordable housing themselves as an integral part of the development. These units would then be transferred (either as shells or as fully fitted units) to a RSL or the Council for onward management and maintenance. An alternative would be for a developer to build integrated units for discounted sale.

#### 5.2 Transfer of Land to a Registered Social Landlord

In an instance where serviced land is transferred to a Registered Social Landlord or the Council for them to carry out the development of the affordable units, special care must be taken that the different parts of the overall development are successfully integrated and that the area earmarked for the affordable element is not subject to any particular development constraints.

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### 5.3 Securing the Affordable Contribution

In the case of affordable rented housing, the Council will wish to ensure that the properties remain as such, in perpetuity, and appropriate provisions to this effect will be inserted into a legal agreement to accompany the grant of planning permission.

Where affordable rented housing is the preferred means of affordable housing provision, the legal agreement will also set out:

- a. a period of time within which the developer is expected to enter into a contract for the transfer or sale for the land/ units with a RSL or Local Authority;
- b. an alternative method of provision will be specified as a fall back position where affordable rented housing cannot be achieved; and
- c. the legal agreement will set out the requirements of how a developer evidences it cannot reasonably provide affordable rented housing, through a financial viability assessment.

In the case of private sector developments, the Council will aim to ensure that housing remains affordable, in perpetuity, by the use of legal agreements or other mechanisms to

regulate the resale price of individual houses and the type of purchasers entitled to buy them.

Where low cost home ownership is the preferred means of affordable housing provision, the legal agreement will set out the marketing strategy for the units, the value of the first sale, and show this as a percentage of the market value (based on a valuation at the developer's expense) to be applied for future sales or a mechanism for so doing at the time the units are to be marketed for sale (if this will be relevant), restrictions on use, how the units can be disposed of and a requirement for the purchaser to grant a Standard Security in favour of the Council.

Care will be taken when drawing up legal agreements to ensure that lenders' interests are taken into consideration. It will also include clauses that allow a RSL to dispose of a house with the written consent of Scottish Government if it cannot be tenanted.

Developers should note that subsidy for the provision of affordable housing is not guaranteed. Where subsidy is not available, the policy requirement to deliver affordable housing remains. If an acceptable development programme cannot be agreed with the RSL within an agreed time period, alternative means of providing the affordable element should be discussed with the Council at the earliest opportunity. The options available include, but are not limited to, those set out in, possible categories of Affordable Housing, above.

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## 6. Specialist Housing

### 6.1 Student Accommodation

Where a development for student accommodation is proposed, the requirement for a 25% affordable housing contribution will be waived. This is in recognition that student accommodation does fulfil a limited, but specific, need within the city.

It should be noted however that student accommodation is not defined by the Council as affordable housing. Student accommodation can therefore not be used to satisfy the affordable housing requirement within a development.

In instances where student accommodation is developed, its use solely as student accommodation will be controlled within the Section 75 agreement in perpetuity.

### 6.2 Accommodation for the Elderly

Where nursing home accommodation is being provided this will be exempt from the requirement to provide an affordable housing contribution. All other forms of housing or sheltered housing except socially sheltered accommodation provided by a Registered Social Landlord or the Council will be required to provide the standard 25% affordable housing. The use as accommodation solely for these groups will be controlled within the Section 75 agreement in perpetuity

### 6.3 Key Worker Accommodation

It is recognised that the cost of housing in Aberdeen can have a detrimental impact on both attracting and retaining staff in lower paid essential roles. To help combat this issue the Council will accept certain types of housing targeted at such groups, as affordable housing.

With limited funding available and high demand for affordable housing, the Council must ensure it achieves best value. Funds directed to Key Worker accommodation may therefore reduce the Council's ability to deliver traditional affordable housing.

To this end, developments which seek this classification must meet the following criteria:-

- Be directed at the housing needs of the following staff who work within Aberdeen City:-
  1. National Health Service Clinical staff (with the exception of doctors and dentists),
  2. Police Officers
  3. Teaching Staff within Schools, Institutes of Higher Education and Universities.

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4. Aberdeen City Council Staff in roles that have been unfilled for more than 6 months from the date of being first advertised.

- Be a first time buyer or have not owned a home in Aberdeen City or Shire,
- Have a maximum household income of £40,000,
- Low Cost Home Ownership will not be an acceptable form of key worker provision, only rented accommodation,
- In all cases rent charged will not exceed the Local Housing Allowance level.
- In exceptional cases, and where agreed with the Council, properties may be allocated to people who exceed the maximum income threshold. In such cases the rent will be uplifted to a “cost of development” level. This additional rental income will be ring fenced by the landlord for re-investment in affordable housing, with details to be agreed between the landlord and the Council within the Section 75 agreement in perpetuity.

#### 6.4 Gypsy / Traveller Accommodation

Gypsy / Traveller accommodation is dealt with separately within the Gypsy / Traveller Sites Supplementary Guidance.

#### 7. **Suitability of Design and Factoring Charges**

Fundamental to the delivery of affordable housing is the suitability of the design of the development for use as affordable housing. Modern developments often include design features which increase the management and/or maintenance costs of a development. Registered Social Landlords are then often unwilling or unable to take delivery of such developments. Where possible developments should not have a factoring charge, but where they do, this should be kept to a minimum. The following is a non-exhaustive list of issues which should be avoided when designing developments to accommodate affordable housing:-

- Any feature which would result in an excessive factoring charge or future maintenance charges,
- Excessive formal open space/landscaping which must be maintained
- Units containing lifts
- Units with under croft parking
- The use of external material(s) which require ongoing maintenance

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The purpose of this list is not to prevent the use or inclusion of such items within the overall development, but to ensure that careful consideration is given to their use in the context of buildings which are proposed to accommodate affordable housing. Consideration could also be given to a separate factoring charge for the affordable housing section of the site.

An excessively high factoring charge or an unsuitably designed scheme will not be acceptable reason for not providing affordable housing on site, and early engagement with the Council is recommended. All of the above will be taken into consideration in discussions on development viability.

#### 7.1 Integrated Developments

Affordable housing should be designed and built to a good standard and integrated into the development. Units should be built to the same design codes as the rest of the development site. There should be no discernible difference between affordable housing and market housing. In principle, the affordable housing element of new developments should be the units located closest to public transport routes and community facilities.

### 8. **Monitoring and Review**

Aberdeen City Council monitors the delivery of affordable housing. If it is clear that the objectives of the policy are not being met, and the type of affordable housing that is being delivered is not meeting need, then there will be a requirement to review this Supplementary Guidance. This review would include a consultation exercise involving key stakeholders and the general public.

In relation to the commuted payments set out in Table 1 and the Low Cost Home Ownership benchmark prices set out in Table 2, these figures will be reviewed on a five year basis at the time of the next Local Development Plan. Where the change in values is nil, or deemed by the Council to be insignificant, the figures and Supplementary Guidance will remain in effect until the next review.

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## 9. Application and Processing Procedure

To aid the Development Management Officer and the Housing Team, applicants are asked to submit the following information with their planning application:-

- Affordable Housing Proposal Form (Appendix 1 of this guidance). This provides general information about the scheme and allows officers to quickly provide comments on the mix and type of units being provided.
- A plan highlighting which units within the scheme are proposed to be the affordable housing units. This can be either highlighted on the general arrangement drawings or provided as a separate plan.

The drawing(s) should indicate the location of each affordable housing unit and the size (number of bed spaces). This drawing(s) is extremely important as it allows Officers in the Housing Team to advise Development Management on the suitability of the design and layout of the development to deliver affordable housing units.

Failure to provide this information may delay the validation and / or determination of the application, and failure to provide any information will be considered as failure to comply with Policy H5 – Affordable Housing.

**Appendix 1 – Affordable Housing Proposal Form**

<b>1</b>	<b>Name of Development</b> (Name or OP site designation)	
<b>2</b>	<b>Location of Development</b>	
<b>3</b>	<b>Sub-Market Area</b>	
<b>4</b>	<b>Number of Dwellings Proposed</b>	
<b>5</b>	<b>Number of Affordable Dwellings Proposed</b>	
<b>6</b>	<b>Drawing Number of plan showing location of affordable housing on site.</b>	
<b>6</b>	<b>Breakdown of Affordable Housing Types</b>	
	<b>Type</b>	<b>Flats      Houses</b>
	<b>On Site Delivery</b>	
	(a) One Bed	
	(b) Two Bed	
	(c) Three Bed	
	(d) Four Bed	
	(e) Five Bed+	
	<b>Off Site</b>	
	<b>Proposed Delivery Schedule</b>	

<b>7</b>	<b>Discussion with Aberdeen City Council</b> (Please fill out this section if you have had initial discussion about Affordable Housing)	
	Name of Officer	
	<u>Outline of Discussion:</u>	
<b>8</b>	<b>Engagement with Registered Social Landlords</b> (Please fill out this section if you have had initial discussion or entered into any agreements with a Registered Social Landlord)	
	Name of RSL	
	Contact Details	
	<u>Outline of Agreement or Discussion:</u>	

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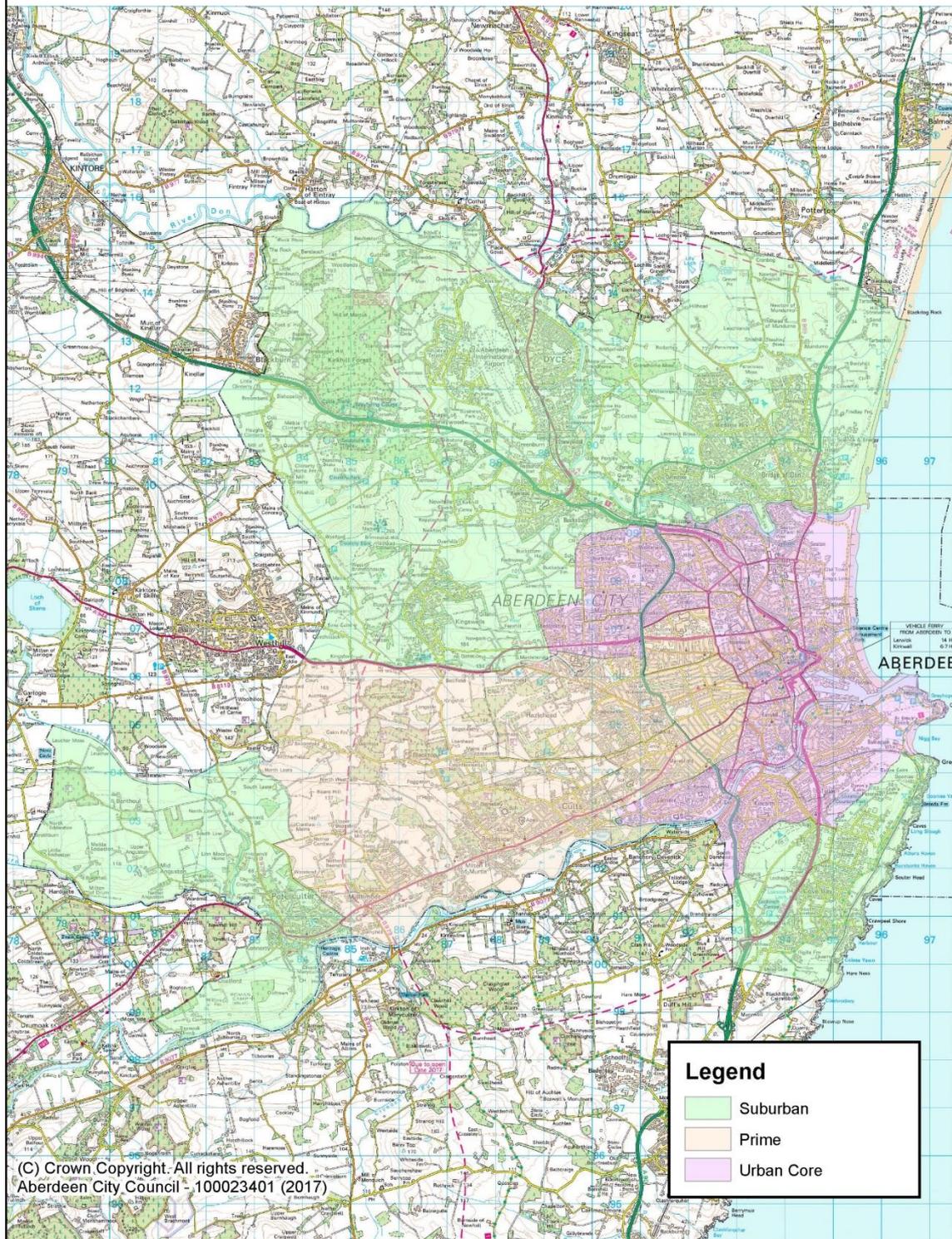
## **Appendix 2 – Developer Viability Statement**

The following is non exhaustive list of information required to assess the viability of a development.

1. Developers/applicants development appraisal
2. All fees incurred
3. Development Sales Revenue and Unit Sales Prices.
4. Build costs
5. All other costs
6. Gross Development Value
7. Profit

## Appendix 3 – Sub Market Areas

### Housing Market Sub-Areas



A more detailed copy of this map is available on the Council Website.