

STATES OF JERSEY



ISLAND PLAN 2022-25: APPROVAL (P.36/2021) – TWENTY-FIFTH AMENDMENT FUTURE AFFORDABLE HOUSING PROVISION

Lodged au Greffe on 12th July 2021
by Senator S. Y. Mézec

STATES GREFFE

After the words “the draft Island Plan 2022-25” insert the words “except that –

- (a) before ‘Proposal 22 - Future affordable housing provision’ there should be inserted the following new Policy –

“Policy HX - Future affordable housing provision

Residential development, to which this policy applies, will only be supported where a proportion of affordable housing is provided in accordance with the proportions and thresholds set out in supplementary planning guidance issued by the Minister for the Environment.

The application of this policy will be phased incrementally, subject to monitoring and review, such that:

1. the threshold levels for the scale of the development to which it applies will be incrementally reduced over time. It shall initially apply to schemes with a capacity of five or more homes and is intended to apply to schemes with a capacity of two or more homes after five years;
2. the proportion of affordable housing to be provided will be increased over time. It shall initially be at a rate of 12.5%, rising incrementally to 20% after five years. The percentage of affordable housing shall be rounded up if the figures arrived at contain a proportion of one unit.

The tenure of that proportion of development yield that is to be provided as affordable housing i.e. whether it is to be affordable homes for rent or purchase, shall be determined by guidance issued by the Minister for the Environment.

Schemes that are just below the threshold levels, will have to demonstrate that the proposals do not represent an under-occupation of the site, nor that a large site is being brought forward in phases in order to avoid the threshold at each stage.

Affordable housing shall be provided on the site for which permission is sought unless one or more of the following circumstances apply:

1. that the provision of affordable housing on the site would make that development unviable;
2. that the site is of such a size or nature that the contribution to affordable housing would be maximised by the contribution to affordable housing in the form of a commuted payment, to support the delivery and/or procurement of affordable housing elsewhere;
3. affordable housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant;
4. the housing units provided in a mixed-use scheme are directly related to and necessary for the operation of that development.

The Minister for the Environment will review the parameters which apply to the operation of this policy on an annual basis and, where there is a need for change, will issue supplementary planning guidance to revise one or more of the following: the threshold size of developments to which the policy will apply; the proportion of affordability to be derived from those developments to which the policy applies, including the level of commuted sum tariff; and the tenure of the affordable housing development yield.”;

- (b) ‘Proposal 22 – Future affordable housing provision’ should be deleted and replaced with the following Proposal –

“Proposal – Affordable housing

The Minister for the Environment will develop and issue supplementary planning guidance for the operation of this policy in order that it might take effect from, 1st January 2023; and

- (c) the draft Island Plan 2022-25 should be further amended in such respects as may be necessary consequent upon the adoption of paragraph (a) and (b).”

SENATOR S. Y. MÉZEC

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

to approve, in accordance with Article 3(1) of the Planning and Building (Jersey) Law 2002, as amended by the Covid-19 (Island Plan) (Jersey) Regulations 2021, the draft Island Plan 2022-25 “except that –

- (a) before ‘Proposal 22 - Future affordable housing provision’ there should be inserted the following new Policy –

“Policy HX - Future affordable housing provision

Residential development, to which this policy applies, will only be supported where a proportion of affordable housing is provided in accordance with the proportions and thresholds set out in supplementary planning guidance issued by the Minister for the Environment.

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1. the threshold levels for the scale of the development to which it applies will be incrementally reduced over time. It shall initially apply to schemes with a capacity of five or more homes and is intended to apply to schemes with a capacity of two or more homes after five years;

2. the proportion of affordable housing to be provided will be increased over time. It shall initially be at a rate of 12.5%, rising incrementally to 20% after five years. The percentage of affordable housing shall be rounded up if the figures arrived at contain a proportion of one unit.

The tenure of that proportion of development yield that is to be provided as affordable housing i.e. whether it is to be affordable homes for rent or purchase, shall be determined by guidance issued by the Minister for the Environment.

Schemes that are just below the threshold levels, will have to demonstrate that the proposals do not represent an under-occupation of the site, nor that a large site is being brought forward in phases in order to avoid the threshold at each stage.

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1. that the provision of affordable housing on the site would make that development unviable;
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3. affordable housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant;
4. the housing units provided in a mixed-use scheme are directly related to and necessary for the operation of that development.

The Minister for the Environment will review the parameters which apply to the operation of this policy on an annual basis and, where there is a need for change, will issue supplementary planning guidance to revise one or more of the following: the threshold size of developments to which the policy will apply; the proportion of affordability to be derived from those developments to which the policy applies, including the level of commuted sum tariff; and the tenure of the affordable housing development yield.”;

- (b) ‘Proposal 22 – Future affordable housing provision’ should be deleted and replaced with the following Proposal –

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The Minister for the Environment will develop and issue supplementary planning guidance for the operation of this policy in order that it might take effect from, 1st January 2023; and

- (c) the draft Island Plan 2022-25 should be further amended in such respects as may be necessary consequent upon the adoption of paragraph (a) and (b).”

REPORT

Summary

This amendment introduces a new policy into the Bridging Island Plan to enable a requirement for private developers to make an affordable housing contribution from the start of the plan, on the same terms as the previously proposed “H3” policy proposed in the 2011 Island Plan. The Environment Minister will then have the powers to amend the terms on which this is delivered and how the proportion of affordable homes can be adjusted as necessary to remain a viable policy which the industry can sustain.

Introduction

Page 194 of the Bridging Island Plan contains the following “proposal” -

Proposal – Future affordable housing provision

The Minister for the Environment will undertake further research into the introduction of a mechanism to deliver a proportion of homes on all housing development sites to be affordable homes.

The impact on housing supply and viability will be assessed in detail and be the subject of consultation with key stakeholders.

Any future mechanism would be developed having regard to the need for restrictions to be put in place to ensure that contributions to the proposed Sustainable Communities Fund were viable, proportionate and appropriate in light of the provision of affordable homes.

This “proposal” is not a “policy” and merely represents a statement of intention from the Environment Minister that he will look into this, but without a timetable for when such a policy could be in operation. There is also no guarantee that this would be a priority for the next government and Environment Minister, who may choose not to pursue it.

Despite the good intentions of this proposal, in reality it achieves nothing until it is formalised as a policy in the Island Plan. It also suggests that more time and resources will be spent looking into this potential policy, despite the fact that a substantial amount of work looking into this (including examining the viability of the policy) was undertaken as part of the Island Plan 2011. This could be repetition of work which has already been done, which is not a good use of government time.

Jersey desperately needs more affordable homes, and any mechanism to increase the number which can be delivered in the period of the Bridging Island Plan should be welcomed, as there is a risk that not enough is achieved from the outset, leaving the second part of the Plan to pick up the pieces after what could be several years of missed opportunities.

Table H1 on page 186 of the Bridging Island Plan provides a forecast of housing delivery over the Plan’s period, including a breakdown between private and government-owned sites. It shows that in the years 2021-25 they are forecasting no homes at all to be built on private sites (excluding those specifically rezoned for this Plan) which are affordable.

This brings the total amount of Affordable Housing to be delivered to 1,500. This is clearly inadequate, as this is only half the number of applications there are on the Affordable Housing Gateway today¹.

¹[https://statesassembly.gov.je/assemblyquestions/2021/\(234\)%20approved%20and%20answered%20sen%20mezec%20to%20hsg%20re%20housing%20gateway%20applications.pdf](https://statesassembly.gov.je/assemblyquestions/2021/(234)%20approved%20and%20answered%20sen%20mezec%20to%20hsg%20re%20housing%20gateway%20applications.pdf)

Supply source		Five-year supply estimate 2021-25	
		Affordable	Open Market
Under construction (end 2020)		625	700
Planning permission (March 2021)		0	700
Town Capacity	Private sites	0	600
	Government/approved housing provider sites	425	150
Windfall (outside of Town)		0	500
Rezoning - strategic extension sites		150	0
Rezoning - suburban extension sites		150	0
Rezoning - rural extension sites		150	0
Total estimated supply		1,500	2,650
		4,150	

Table H1: Sources of housing supply

Further to this, the Housing Policy Development Board² recommended:

“P3: Planning policy, including the 2021 Island Plan, should introduce an Affordable Housing Contribution to mandate a minimum proportion of new supply as affordable.” Since there is a will from the Environment Minister to enact this policy at some point in the future, and clear signs that we are set to fail to meet the evidenced need for affordable housing through the delivery programme of Andium Homes on its own, I propose that we be able to require the private sector to make an affordable housing contribution at the start of this Plan.

New Policy HX

This policy would take effect on the terms prescribed in the wording of this amendment. Namely that:

1. the threshold levels for the scale of the development to which it applies will be incrementally reduced over time. It shall initially apply to schemes with a capacity of five or more homes and is intended to apply to schemes with a capacity of two or more homes after five years;
2. the proportion of affordable housing to be provided will be increased over time. It shall initially be at a rate of 12.5%, rising incrementally to 20% after five years. The percentage of affordable housing shall be rounded up if the figures arrived at contain a proportion of one unit.

This would, from the outset, require private developers producing residential accommodation to ensure that a small proportion of the homes they build meet the planning definition of “Affordable Housing”. The levels set are at a relatively low level to ensure the policy is viable and can be accommodated by private developers. As the policy is embedded in the way planning is sought and approved in Jersey, the proportions will eventually increase.

²<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Housing%20Policy%20Development%20Board%20Final%20Report%20April%202021.pdf>

The policy requires the Environment Minister to produce supplementary planning guidance to further govern how this will work in practice.

The policy does provide for exceptions to be made, where a particular development can be demonstrated to not be able to provide affordable housing without harming the viability of the whole scheme, or when more beneficial alternatives could be pursued by the developer. In these instances, the applicant will have to make the case that they meet the thresholds for these exemptions, and if there is a disagreement over that, the facility will exist for it to be examined by an independent assessor.

The exemptions provided are:

1. that the provision of affordable housing on the site would make that development unviable;
2. that the site is of such a size or nature that the contribution to affordable housing would be maximised by the contribution to affordable housing in the form of a commuted payment, to support the delivery and/or procurement of affordable housing elsewhere;
3. affordable housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant;
4. the housing units provided in a mixed-use scheme are directly related to and necessary for the operation of that development.

“H3”

A similar policy which this amendment proposes was already proposed and approved by the States Assembly as part of the Island Plan 2011. The Environment Minister was then to produce the planning guidance which would have kicked the policy into effect, however this was never forthcoming, and instead at the Island Plan 2011 review there was a move to use States-owned sites to deliver affordable housing, and rezoning sites specifically for that purpose.

Though these alternatives have been positive in their own right, overall they have proven to be inadequate, as we do not have an affordable housing construction programme now (or indeed projected in the Bridging Island Plan) to meet the evidenced need for affordable housing right now, let alone growing need in the future. It is for this reason that the principles of the H3 policy are worth taking up again, and clearly why the Housing Policy Development Board after its extensive examination of the housing situation in Jersey proposed that it is brought back too.

Financial and manpower implications

The operation of this policy will be achieved using the resources already allocated to implement the Bridging Island Plan policies and support the planning processes.

Children’s Rights Impact Assessment

This amendment has been assessed in relation to the [Bridging Island Plan CRIA](#). It seeks to ensure a greater supply of affordable housing to meet the need that is demonstrated on the Affordable Housing Gateway and in the Objective Assessment of Housing Need report. Improving housing affordability will help improve stability and cost of living pressures for families, which will greatly benefit children. The BIP CRIA identifies the relevant articles from the UNCRC relating to housing affordability, including Article 27 which places a duty on government to actively provide support to enable children to have a “standard of living that is good enough to meet their physical and social needs and support their development”.

Appendices

Appendix 1 – Policy H3 from the Island Plan 2011³.

Policy H 3 Affordable housing

Permission will not be granted for any residential development to which this policy applies, whether or not this forms part of a mixed-use scheme, unless and until the Minister for Planning and Environment is satisfied that the development has maximised the opportunity for the provision of affordable housing, in accord with the parameters of this policy.

The Minister will require a proportion of affordable housing to be provided on those sites to which this policy applies in accordance with the proportions and thresholds set out in supplementary planning guidance issued by the Minister.

To ensure the timely development and provision of affordable homes, the Minister will limit the validity of planning permission for sites to which this policy applies by condition, the extent of which will be set in supplementary planning guidance, which, amongst other matters, will provide that the validity of such permissions will normally be limited to 3 years, with any extension being conditional upon the full ground works being completed during the 3 year period.

On sites with a limited capacity, the Minister may require a proportion of affordable housing to be provided through a commuted payment, to support the delivery and/or procurement of affordable housing elsewhere. Alternatively, the affordable housing provision may be made on the site for which permission is sought.

The application of this policy, which will commence on 01 January 2012, will be phased incrementally, subject to monitoring and review, such that:

1. the threshold levels for the scale of the development to which it applies will be incrementally reduced over time. It shall initially apply to schemes with a capacity of six or more homes and is intended to apply to schemes with a capacity of two or more homes after five years;
2. the proportion of affordable housing to be provided will be increased over time. It shall initially be at a rate of 12.5%, rising incrementally to 20% after five years. The percentage of affordable housing shall be rounded up if the figures arrived at contain a proportion of one unit.

In order to meet the Island's housing needs, the tenure of that proportion of development yield that is to be provided as affordable housing i.e. whether it is to be social-rent, a form of intermediate housing, be that “Jersey Homebuy” or another/alternative form of shared equity housing, first-time buyer or lifelong homes (for people over 55), shall be determined by the Minister, based on current housing need. The Minister for Planning and Environment will review these parameters on an annual basis and, where there is the need for change, will issue supplementary planning guidance to revise the threshold size of developments to which the policy will apply; the proportion of affordability to

3

<https://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/IP%202011%20Housing%20Pages%20227-272.pdf>

be derived from those developments to which the policy applies, including the level of commuted sum tariff; and the tenure of the affordable housing development yield. Schemes that are just below the threshold levels, will have to satisfy the Minister that the proposals do not represent an under-occupation of the site, nor that a large site is being brought forward in phases in order to avoid the threshold at each stage.

Affordable housing shall be provided on the site for which permission is sought unless one or more of the following circumstances apply:

1. that the provision of affordable housing on the site would make that development unviable;
2. that the site is of such a size or nature that the contribution to affordable housing would be maximised by allowing high-quality market housing to occupy that site and for the contribution to affordable housing to be in the form of a commuted payment, to support the delivery and/or procurement of affordable housing elsewhere;
3. affordable housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant;
4. the housing units provided in a mixed-use scheme are directly related to and necessary for the operation of that development.

All development to which this policy applies will need to be the subject of a standard economic viability assessment, to be provided and funded by the developer, as an integral element of a planning application, in accordance with supplementary planning guidance to be issued by the Minister. It is intended that this policy mechanism for the delivery of affordable homes will be permanent and will be extended beyond the Plan period.

Department of the Environment
Supplementary Planning Guidance
Draft advice note

Consultation Draft

Affordable housing

DRAFT

August 2012

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About supplementary planning guidance

The Minister for Planning and Environment may publish guidelines and policies (supplementary planning guidance) in respect of; development generally; any class of development; the development of any area of land; or the development of a specified site¹.

Supplementary planning guidance may cover a range of issues, both thematic and site specific, and provides further detail about either, policies and proposals in the Island Plan, or other issues relevant to the planning process. It can also be used to provide information about how the planning system operates.

Where relevant, supplementary planning guidance will be taken into account, as a material consideration in making decisions.

Supplementary planning guidance is issued in a number of different forms including:

- Advice notes, which offer more detailed information and guidance about the ways in which Island Plan policies are likely to be operated, interpreted and applied in decision making;
- Policy notes, which can be issued by the Minister, following consultation with key stakeholders, in-between reviews of the Island Plan, to supplement and complement the existing planning policy framework;
- Masterplans, development frameworks and planning briefs provide more detailed information and guidance about the development of specific sites and areas of the Island; and
- Practice notes, which aim to provide information about how the planning system's protocols and procedures operate.

The current supplementary planning guidance is listed and can be viewed on the States of Jersey website at www.gov.je/planningguidance.

Hard copies of all supplementary planning guidance can be obtained from Planning and Building Services, Department of the Environment, South Hill, St Helier, JE2 4US, telephone: 01534 445508 email: planning@gov.je

¹ Under Article 6 of the Planning and Building (Jersey) Law

1 Policy context and purpose

- 1.1 The Island Plan 2011 contains the planning policies used to assess planning applications and development proposals. Policy H3 of the Island Plan sets out the requirements for affordable housing provision and is set out at Appendix 1. This policy requires that a proportion of new residential development, where it is above specified thresholds, delivers affordable homes.
- 1.2 The purpose of this document is to provide information to developers on the Minister's approach to the implementation and operation of Policy H3.

2 Application of Policy H3

- 2.1 Policy H3 will initially apply to all residential developments with a capacity of six or more homes and is intended to apply to schemes with a capacity of two or more homes after five years with the exception of housing to meet special requirements including sheltered housing, residential care and nursing homes (see Island Plan 2011 Policy H7 'Housing to meet special requirements'); registered lodging accommodation (see Island Plan 2011 Policy H8 'Registered lodging accommodation'); or staff accommodation (see Island Plan 2011 Policy H9 'Staff and key agricultural worker accommodation').
- 2.2 It will not be applicable to housing provided under Island Plan 2011 Policies H1 and H2 'Category A housing sites' and 'Other Category A housing sites' and Island Plan 2011 Policy H5 'Housing in rural centres' which are for the purposes of Category A housing only.
- 2.3 The proportion of affordable housing to be delivered by Policy H3 and the threshold at which it will be applied will change over time. The tables below set out the timescales for amendments to the proportion of affordable housing and threshold of residential development to which Policy H3 will apply. These parameters will apply from the approval date of this document by the Minister for Planning and Environment for the years indicated below, unless the Minister issues guidance otherwise. The Minister has already made it clear that the policy will not come into effect until 2012, and until he has adopted the SPG which sets out the mechanism by which this policy will operate.
- 2.4 For clarity, and to enable the most efficient and simple application of this policy, the proportion of affordable housing and the threshold at which the policy will be applied will be based on the date at which an application is made², and the form and scale of the application at this time, rather than when it is determined, or permission enacted. For example, if an application for planning permission is made in December 2013 the proportion of affordable housing required will be 12½%, the commuted sum threshold will be 6-10 units and the on-site provision threshold will be 11 units or more.
- 2.5 If appropriate, on phased or outline applications the relevant thresholds and yields will relate to when an application for reserved matters is made. To promote clarity, and for the avoidance of doubt, developers are encouraged to contact the Department of the Environment prior to submission to seek guidance and confirm the current policy requirements in respect of threshold and proportion of affordable housing.

² The date of application is deemed to be when the application is registered as a valid application by the Department of the Environment

Table one: Changing threshold of residential yield to which Policy H3 will apply

Year	2012-2013	2014-2015	2016+
Commuted sum threshold	6-10 units	5-9 units	2-8 units
On site provision threshold	11 units or more	10 units or more	9 units or more

Table two: Changing proportion of residential development to be delivered as affordable housing

Year	2012	2013	2014	2015	2016+
Proportion	12½%	12½%	15%	17½%	20%

- 2.6 It is intended that the minimum threshold will remain at the 2016 position and the proportion will remain at 20% for the remainder of the Plan period as long as these parameters deliver the required affordable housing. It is intended that the policy will remain, thereafter, but that the thresholds and proportions may change.
- 2.7 Developers whose schemes are just below the threshold level, will have to satisfy the Minister that the proposals do not represent an under development of the site, nor that a large site is being brought forward in phases in order to avoid the threshold at each stage. Policy GD3: Density of development of the 2011 Island Plan may be material in relation to the number of homes to be provided on any site.
- 2.8 In order to deliver on site affordable housing provision, this policy requires a fully operational Housing Gateway and the legal framework for occupiers to own affordable housing units and preserve affordability for subsequent occupiers. Although the Housing Gateway is operational, it is not yet collecting all of the appropriate information to inform the policy, whilst the legal framework is not yet in place. **Therefore, for the interim period the States will initially seek an affordable housing contribution through commuted sum for the majority of schemes, reverting to the provision of physical units once these other elements that the policy is contingent upon are in place.**

3 Definition of affordable housing

- 3.1 Affordable housing is defined in the Island Plan 2011 as *"housing that is affordable to specified eligible households who are not served by the workings of the housing market in Jersey"*.³
- 3.2 For clarity, this will include both social rented housing and intermediate affordable housing. Intermediate housing will be made available to eligible households at a equivalent to 50% open market value. For the purposes of this document the types of affordable housing as well as market housing are generically referred to as "tenure".
- 3.3 The housing units, where sought, which are provided as a result of this policy shall contribute to the growth of the stock of affordable homes in Jersey either by the properties themselves being maintained as affordable homes in perpetuity, or through the recycling of any receipts from the sale of such housing, to enable a similar number of other properties to be made affordable: this is achieved by the transfer of the freehold of land on which affordable housing is located to a not for profit body set up and regulated by the States of Jersey.

³ Island Plan 2011, paragraph 6.129

- 3.4 The eligibility of households to access affordable housing shall be determined by their assessment through the Housing Gateway⁴. The clear relationship between affordable housing and the Housing Gateway, means that housing that is developed for sale on the open market is excluded from the definition of affordable housing whatever price it is sold at. The Housing Gateway will collect information from applicants for both social rented housing and intermediate housing.

4 Tenure and form of affordable housing

- 4.1 Island Plan 2011, Policy H3 allows for the provision for a range of affordable housing tenures within the definition of affordable homes given above. The present intention, however, is that the affordable housing to be delivered as a result of the application of Policy H3 is for the delivery of intermediate housing⁵ only.⁶
- 4.2 The primary source for determining the form of current affordable housing requirements, in terms of unit size and type, will be the Housing Gateway which will assess the specific needs of all those on the Island seeking to gain access to affordable housing. The Minister will express these requirements through the publication of supplementary planning guidance, which will be reviewed and revised as requirements change.
- 4.3 The nature of the development and the scale and location of the site will also be material factors in the determination of the unit size and type of affordable homes to be provided.

5 Economic viability

- 5.1 The viability of development affected by the affordable housing policy is vital. The Minister for Planning and Environment is extremely concerned to support the delivery of housing across all tenures in Jersey at all times, and particularly in periods of economic downturn. The Minister does not wish to threaten the viability of housing and mixed use schemes through the uninformed application of this policy and it is for this reason that applications which cannot for reasons of economic viability provide affordable housing in line with Policy H3 will be required to be accompanied by a standard viability assessment prepared by the applicant and audited at the cost of the applicant.
- 5.2 Where the developer meets the affordable housing requirement as prescribed by this policy then there is no requirement to provide a viability assessment.
- 5.3 Where a viability assessment is required, the following process will apply. A flow chart is also included at Appendix 2.

Viability assessment process

Pre-submission discussions

⁴ The Housing Gateway is the mechanism by which eligibility of households to access affordable housing is determined, operated by the States of Jersey Housing Department. The application process will collect information about household members, incomes (including savings and investments), numbers of dependents, residential qualifications, and the household's ability to sustain home ownership.

⁵ Intermediate housing is that which meets the needs of those with incomes too great to be eligible for social-rented housing, but who are unable to afford to buy the cheapest open market home, even with the assistance of a loan.

⁶ The ability of intermediate housing to continue to meet affordable housing need will be monitored and reviewed on an annual basis. Further guidance will be issued if there is a need to deliver alternative forms of affordable housing tenures through the application of Island Plan 2011 Policy H3.

- 5.4 In view of the impact that the provision of affordable housing can have upon the economics of development it is appropriate that discussions relating to its delivery should commence at the earliest opportunity. Developers who suspect their sites may be unable to deliver the requisite yield of affordable housing required by Policy H3 should seek discussions on the subject, with the Department of the Environment, at the earliest opportunity.
- 5.5 Whilst it is recognised that the final package of affordable housing may depend upon the resolution of other issues which may themselves be the subject of negotiation, it remains good practice to front-load discussions where possible. It is therefore expected that any assessment of viability submitted as justification for a reduction of the provision of affordable housing required by Policy H3 should arrive as part of the planning application having been discussed through pre application submissions. Except where there is prior agreement, the Department of the Environment may decline to register any such application until an assessment of viability and statement is received setting out the reasons for the deviation from the policy.

Methodology

- 5.6 The viability assessment will be based on the financial effect on the development of providing the maximum proportion of the affordable housing required by Policy H3. The criterion that will be used in order to determine viability is whether the development is capable of delivering sufficient land value to ensure that the site comes forward for development through the use of a residual land value appraisal.
- 5.7 In simplified form, the calculation performed by the appraisal should be:
- $$\begin{array}{l}
 \text{Gross development value (including affordable housing)} \\
 \text{minus} \\
 \text{Total development costs (including financing costs and developer profit)} \\
 \text{equals} \\
 \text{Residual land value}
 \end{array}$$
- 5.8 The residual land value (RLV) produced by the appraisal may then be compared to the amount of money it would be reasonable to pay for the land in order to ensure that it comes forward for development. If the RLV is less than the cost of bringing land forward then it would not be possible for the developer to acquire the site and development could be said to be unviable. However, if the RLV is greater than the reasonable cost of bringing the land forward, then the scheme is viable and development may proceed.

Choice of viability assessment methodology

- 5.9 Whilst a variety of residual land value financial appraisal methodologies are available the Department of the Environment will publish its own methodology as an integral part of this guidance. Developers will be encouraged to use the DoE's preferred model, in the interests of efficiency, simplicity and consistency. Developers who propose to use their own residual land value appraisal model should be aware that such models will be subject to additional auditing to assess their suitability and appropriateness.
- 5.10 Scrutiny and validation of any model as outlined above, in addition to an assessment of the appropriateness of inputs used, will be undertaken by Property Holdings, or another

suitably qualified independent professional assessor selected by the Department of the Environment, at the developer's cost.

5.11 It is not appropriate to use any model which treats land value as an input.

Transparency

5.12 Planning is a public process and the Minister is required to ensure that details of each application for planning permission are available for public inspection⁷. It, therefore, follows that viability assessments associated with a planning application should be open to public scrutiny.

5.13 The Minister may only make exceptions, and consider appraisals in confidence, where he or she can be adequately convinced that information in the appraisal is genuinely commercially sensitive but developers should be aware that, if it is not possible to reach an agreement, and the scheme is subject to appeal, it may not be possible to maintain the confidentiality of any viability assessment.

5.14 The preparation and submission of a viability assessment should be made within the context of the Planning and Building (Jersey) Law 2002⁸ which states that:

"If, when making an application for planning permission, a person knowingly or recklessly makes a false or misleading statement or representation, or a statement or representation with a material omission, the person shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine."

5.15 Accordingly, all parties to an assessment of viability should not withhold any information or provide partial or false information that would lead to an unrealistic and/ or flawed assessment of viability.

5.16 In cases where there is a dispute between the Minister and the applicant as to the viability of a development proposal, the assessment shall be evaluated by Jersey Property Holdings or another independent professional assessor, selected by the Department of the Environment, at the developer's cost.

Key inputs and outputs

5.17 In order to carry out an appraisal it is necessary to assess gross development value (GDV) and to subtract from that value the gross cost of development. From these inputs, the residual land value may be calculated as an output. Appendix 3 contains a sample viability assessment pro forma which outlines (not exclusively) information that developers will be required to provide alongside a completed viability appraisal. Such information would normally be held by any developer considering a planning application.

5.18 It should be noted that in addition to the information required as set out in the pro forma it is likely that the Department of the Environment will require additional supporting evidence in respect of certain costs and values. These are likely to include but may not be restricted to:

- supporting evidence on costs relating to abnormal construction requirements including site investigation and decontamination works;
- independent supporting evidence of the site's existing/alternative use value.

⁷ Article 29 of the Planning and Building (Jersey) Law 2002

⁸ Article 10 of the Planning and Building (Jersey) Law 2002

- 5.19 With regard to this latter point, and for the avoidance of doubt, the actual amount paid for the land is not a relevant consideration in the viability assessment. The proper consideration is what it would be reasonable for a developer to pay for the site today. Thus, a developer will not be permitted to provide less affordable housing simply because he acquired the site at the peak of the market. Nor would the Minister seek additional affordable housing because the site was acquired decades ago at a very low price.
- 5.20 The reasonable value is, therefore, based upon the land's current or reasonable alternative use plus any applicable assembly costs. For example, if the site is currently a commercial building available with vacant possession then the reasonable value would be one that reflected the building's value in its commercial use.
- 5.21 If the site might be suitable for some other use, which would attract a higher value than the current use (perhaps a hotel) then it may be appropriate to give consideration to this alternative use where it has a reasonable prospect of gaining planning permission for development. If the site is currently in use then it may be appropriate to add a premium sufficient to induce the current owner to sell.
- 5.22 The greatest difficulty is often experienced in respect of greenfield sites whose current use value is either low (agricultural land) or difficult to quantify (back land) and which have no other obvious use except for the proposed residential use. The Department of the Environment recognises that such sites will need to be serviced (a quantifiable cost) but that there may also need to be an uplift in value in order to bring the sites forward. For the avoidance of confusion, developers proposing development on greenfield sites should, at their earliest opportunity, commence discussions with the Department of the Environment as to the reasonable cost that may be ascribed to greenfield land.

Data type

- 5.23 In choosing the data that will be used as inputs to a viability assessment, there is a balance to be struck, between the urge to reflect, in as much detail as possible, the specific circumstances of the development and the necessity for the planning system to function in a consistent and transparent manner. In striking this balance, the key is that planning permission is not personal to the applicant but attaches to land. It is, therefore, vital that data used should reflect the circumstances of the development and not those of the developer.
- 5.24 It is also important to ensure that development costs reflect the reasonable costs of development. For this reason, the Department of the Environment considers it appropriate to make use of public, auditable data – such as the Building Cost Information Service (BCIS) index – where possible. Developers must not expect to be released from the obligation to provide affordable housing simply because their costs are particularly high. Nor should a developer who has worked hard to control costs be required to provide more affordable housing than a developer who had not made a comparable effort.

6 Exploration of options

- 6.1 The Minister will require the developer to fully explore the options available to achieve economic viability and provide an agreed level of affordable housing provision.
- 6.2 The options which the Minister will require the developer to explore have been outlined below. These consist of taking measures to provide the affordable housing on-site and

achieving economic viability by varying the size, type and affordability; and number of units to be provided (in that order).

- **Variation of size, type and affordability**

A scheme may be made viable by a variation of the target size / type of dwellings to deliver the affordable housing contribution.

- **Reduction of affordable units on-site**

If the viability assessment reveals the developer has demonstrated, to the satisfaction of all involved parties, that the level of affordable housing provision required by Policy H3 is not viable, then the model shall undergo further iterations until a viable proportion of affordable housing is established. This may involve a reduction in the number of affordable units provided on site.

- **The provision of land**

On some occasions the Minister may consider that the provision of land, either on the proposed development site or on an alternative site, would enable a more effective contribution towards meeting the identified housing needs of the Island. This may, for example, include land banking for development at a later date, depending on factors such as location, needs, likely timing and funding implications, etc.

The contribution of land will, in most cases, be land serviced to its boundaries and of sufficient area to provide the equivalent provision arising from the application site. Cash contributions may be sought, in addition to land, where the land is of insufficient area or value to provide provision equivalent to that arising from the application site.

Where there is agreement to provide land as an alternative to either completed units or a commuted sum payment the Minister will, where necessary, undertake an appraisal of the proposed contribution.

- 6.3 As Policy H3 states, planning permissions which are granted following successful viability negotiations will be normally valid for up to three years. Where it is agreed that non-viability is demonstrated the Minister for Planning and Environment reserves the right to require applicants to renegotiate their permission after this period where full ground works are not complete within the three year period.
- 6.4 Where non viability is asserted by the developer and following the viability assessment process, based on the evidence submitted and any other information deemed relevant, the Minister is advised that the scheme could meet the relevant policy requirements in full, or through an acceptable alternative option, and be economically viable then this could lead to planning permission being refused on the grounds that the submitted scheme fails to meet the prescribed level of affordable housing.

7 Delivery hierarchy

On-site provision

- 7.1 The primary objective of Policy H3 is the delivery of affordable homes and there will, therefore, always be a presumption in favour of the provision of affordable homes on site.

- 7.2 Where the site threshold is met and Policy H3 is deemed to apply (see table 1), a proportion of affordable housing is to be provided on site or in kind, in accord with requirements of Policy H3, as set out in table 2.
- 7.3 It is the Minister's view that most sites that are considered suitable for housing are likely to be suitable for affordable housing.

Off-site provision

- 7.4 If a developer wishes to contend that it is not appropriate to provide affordable homes on a particular site then they would need to adequately justify any such contention relative to the presumption in favour of on-site provision.
- 7.5 Developers who feel that a case can be made for off-site provision in a specific instance should notify the Department of the Environment at the earliest opportunity but should be aware that permission to provide affordable housing off-site is only likely to be considered where:
- off-site provision will achieve in a better result in affordable housing terms than on-site could;
 - on-site provision would be impractical because of the nature of development.
- 7.6 Where a developer has demonstrated, to the Minister's satisfaction, that on-site affordable housing provision is not considered to be appropriate, then the affordable housing should be provided on an alternative site by the developer. This is subject to the site being available, suitable and having relevant planning permission. The level of provision should be equivalent to the level of affordable housing that would have been provided on site.
- 7.7 For example, a development which created an obligation to provide, say, four affordable homes would not have met its affordable housing obligations in full if it were simply to provide four homes on another site in a less valuable part of the Island. The Minister would first have to satisfy himself or herself that the alternative site would not, itself, have delivered any affordable housing through the application of Policy H3. If this were so then the secondary site's obligation should be added on to an obligation created by the primary site.
- 7.8 The Minister will require the developer to demonstrate that the contribution made towards the affordable housing on the secondary site is equivalent to the contribution made on the primary site.
- 7.9 There may be exceptional circumstances when both the Minister and developer feel that, although there is a requirement for on-site affordable housing, the obligation could be better met by an off-site provision or a financial contribution. However, it must be stressed that this is a last resort and will only be used on an exceptional basis.

Commuted sum provision

- 7.10 Where the site threshold falls within the commuted sum threshold, or as otherwise agreed between the Minister and applicant, the affordable housing contribution can be provided as a commuted sum in lieu of on-site provision, in accordance with the proportions set out in table 2.

7.11 The primary objective of Policy H3 is the delivery of affordable homes. Should therefore a developer wish to provide affordable housing on site, notwithstanding that the site threshold allows for a commuted sum, then such proposals would be acceptable.

Commuted sum methodology

7.12 Any commuted sum is to be calculated on the basis of 'broad equivalence'. Like the calculation of the overall affordable housing contribution the calculation of a commuted sum should be carried out using a residual land valuation appraisal. In effect, two appraisals are carried out. The first assesses the residual land value without affordable housing, the second assesses the site with the full agreed quota of affordable housing. The difference in the residual land value between the two appraisals is the commuted sum.

7.13 If the value of the land encumbered by affordable housing is found to be below the alternative land value then the commuted sum would be reduced in order to maintain viability. For example, if the value of a particular site without any affordable housing was found to be £4m and, with the full policy requirement in terms of affordable housing, that land value were reduced to £1.8m then the appropriate commuted sum would be £2.2m. However, if the value of that site in its current use could be shown to be £2.4m then the commuted sum would be reduced to £1.6m.

7.14 Commuted sum payments will be triggered on the following basis:

- one third of the total commuted sum figure to be payable on occupation of 50% of the units;
- the remaining two thirds of the commuted sum payable on occupation of 85% of the units.

8 Managing financial contributions

8.1 Where the affordable housing contribution is to be met by the payment of a commuted sum, the financial contribution will be secured through a planning obligation agreement. The contribution will be 'ring-fenced' and used to meet the Minister's affordable housing objectives as set out, in legally binding terms, in the planning obligation agreement. Should the States not spend any commuted sums paid within ten years of receipt these will be returned to the developer.

8.2 The States of Jersey Treasury Department will record where monies have been allocated or spent.

9 Standards

Design and Standards

9.1 The Minister seeks high design and architectural standards on all developments. The affordable housing element of any proposed development will, therefore, be subject to the same standards for all residential development and should be indistinguishable from market housing. Reduction in size, use of substandard materials, or poor finishing and detailing should not be perceived as an acceptable shortcut to affordability.

9.2 Similarly, the provision of affordable homes will need to comply with the policy objectives set by the Minister in the Island Plan and supplementary planning guidance in relation to the provision of parking; internal and external spaces; the adaptability of

dwellings to respond to the changing needs of occupiers; and the environmental performance of buildings in terms of energy efficiency and the use of resources.

Service Charges

- 9.3 On developments where the affordable housing provision is subject to a service charge, the charge should not be so great as to make occupancy unaffordable. The Minister will consider the level of service charges in the context of prices and overall affordability. In the event that service charges are unavoidably high due to the standard required then affordable housing contributions off site or through commutation would be acceptable, calculated in line with the methodology set out above.

Integration

- 9.4 Affordable housing provided on site should be as fully integrated with private housing as is practicable in order to promote the creation of a single, cohesive community.
- 9.5 Affordable units should not be concentrated in a single area of large developments but distributed across the entire site in small clusters. Designers should seek to ensure that these clusters are large enough to facilitate cost effective management of the affordable properties without creating undesirable enclaves. As a rule a maximum cluster size of 10-12 affordable homes is generally acceptable.
- 9.6 Developers should ensure that provision may be made for the successful management of common areas, open space and parking areas in order to ensure that disputes about who uses and who pays for specific features are avoided.

10 Affordable housing transfer and management

- 10.1 A model planning condition is included at Appendix 4 for use as appropriate to secure affordable housing.
- 10.2 Applicants will be required to enter into a planning obligation agreement with the Minister for Planning and Environment to safeguard the provision of affordable housing obligations and, where necessary, control its occupation.
- 10.3 Through the planning obligation agreement, the Minister will seek to:
- *secure the completion of the affordable housing within a specified timescale.*
 - *transfer any land (where land is the agreed contribution) or completed dwellings in a timely fashion.*
 - *set out the criteria for qualifying households to whom affordable housing is offered.*
 - *ensure that affordable housing provision is maintained in perpetuity.*
 - *receive any agreed commuted sums to agreed timescales.*
- 10.4 In the cases of on-site provision, the planning obligation agreement will also ensure that 85% of the general market housing on the site cannot be occupied until the affordable housing element is completed and ready for occupation.
- 10.5 Where completed units are provided, the Minister would expect the inclusion of the following in the planning obligation agreement where applicable:
- *a named housing provider, usually an SRL.*

- *a schedule of affordable housing including amount, types, sizes, tenure and affordability.*
- *the placement on site and tenure of the affordable units.*
- *management and standards.*
- *In the event of a transfer to a housing provider (including an SRL) the transfer cost to be paid by the provider to the developer shall be set out.*
- *the price or proportion of market value to be paid for the completed units by qualifying households.*
- *definition of qualifying households.*
- *the phasing or timing of completions.*
- *disposal arrangements for mortgagee in possession of the affordable housing land.*
- *where non viability is accepted and negotiated the date by which the permission will lapse unless full ground works are completed.*
- *secure payment of the States of Jersey's legal costs for the preparation, consideration and completion of the agreement.*

10.6 A draft planning obligation agreement should be agreed in principle by the time the planning application is considered.

10.7 To ensure that the affordable housing element of a private housing scheme is provided, the Minister will not grant planning permission for the proposed development until the developer, and preferably the social registered landlord or other housing provider who will be delivering the affordable housing element of the scheme, have entered into a planning obligation agreement.

Management of affordable housing

10.8 Affordable housing is housing made available to households in housing need who are excluded from the normal operation of the housing market in Jersey. Eligible households will be selected from applicants to the Housing Gateway, and only applicants who have been ratified through this process will be offered affordable homes.

10.9 For intermediate housing delivered direct by a developer, the Minister will insist on the developer entering into a legal agreement to ensure that the affordable housing is available to those judged, using the Housing Gateway, to be in housing need. It will be a requirement that appropriate management arrangements are in place, that the affordable housing is provided at an affordable level and that the housing remains affordable to successive occupiers that are deemed to be eligible following assessment through the housing gateway.

10.10 Alternatively intermediate housing may be transferred to an agreed housing provider, SRL or the States' Housing Department.

10.11 In all cases the Minister will require through planning obligation agreement or condition, that affordability is maintained in perpetuity, or that provision is made for the recycling of funds for future affordable housing provision, and that the housing is made available to eligible households selected through the Housing Gateway.

Nominations

10.12 The provision of affordable housing will always be subject to a nominations agreement to the benefit of the States of Jersey Housing Department. All eligible households will

be drawn from a list of suitably qualified households applying through the Housing Gateway.

11 Monitoring affordable housing provision

11.1 The requirements for affordable housing will be carefully monitored, in accordance with policy IM1 (Plan – Monitor – Manage) of the 2011 Island Plan, and the policy guidance reviewed, and amended if required, on an annual basis.

11.2 Information monitored will include:

- Annual monitoring of all categories of housing completions (by rent, intermediate housing, category B, etc);
- Delivery of affordable housing units through the planning system, by the type of dwellings e.g. flats / houses, the number of bedrooms etc;
- The percentage of affordable housing achieved on an open market development.

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Appendix 1 – Island Plan 2011 – Policy H3 Affordable Housing

Permission will not be granted for any residential development to which this policy applies, whether or not this forms part of a mixed-use scheme, unless and until the Minister for Planning and Environment is satisfied that the development has maximised the opportunity for the provision of affordable housing, in accord with the parameters of this policy.

The Minister will require a proportion of affordable housing to be provided on those sites to which this policy applies in accordance with the proportions and thresholds set out in supplementary planning guidance issued by the Minister.

To ensure the timely development and provision of affordable homes, the Minister will limit the validity of planning permission for sites to which this policy applies by condition, the extent of which will be set in supplementary planning guidance, which, amongst other matters, will provide that the validity of such permissions will normally be limited to 3 years, with any extension being conditional upon the full ground works being completed during the 3 year period.

On sites with a limited capacity, the Minister may require a proportion of affordable housing to be provided through a commuted payment, to support the delivery and/or procurement of affordable housing elsewhere. Alternatively, the affordable housing provision may be made on the site for which permission is sought.

The application of this policy, which will commence on 01 January 2012, will be phased incrementally, subject to monitoring and review, such that:

1. the threshold levels for the scale of the development to which it applies will be incrementally reduced over time. It shall initially apply to schemes with a capacity of six or more homes and is intended to apply to schemes with a capacity of two or more homes after five years;
2. the proportion of affordable housing to be provided will be increased over time. It shall initially be at a rate of 12.5%, rising incrementally to 20% after five years. The percentage of affordable housing shall be rounded up if the figures arrived at contain a proportion of one unit.

In order to meet the Island's housing needs, the tenure of that proportion of development yield that is to be provided as affordable housing i.e. whether it is to be social rent, a form of intermediate housing, be that 'Jersey Homebuy' or another/alternative form of shared equity housing,, first-time buyer or lifelong homes (for people over 55), shall be determined by the Minister, based on current housing need. The Minister for Planning and Environment will review these parameters on an annual basis and, where there is the need for change, will issue supplementary planning guidance to revise the threshold size of developments to which the policy will apply; the proportion of affordability to be derived from those developments to which the policy applies, including the level of commuted sum tariff; and the tenure of the affordable housing development yield.

Schemes that are just below the threshold levels, will have to satisfy the Minister that the proposals do not represent an under occupation of the site, nor that a large site is being brought forward in phases in order to avoid the threshold at each stage.

Affordable housing shall be provided on the site for which permission is sought unless one or more of the following circumstances apply:

1. that the provision of affordable housing on the site would make that development unviable;
2. that the site is of such a size or nature that the contribution to affordable housing would be maximised by allowing high-quality market housing to occupy that site and for the contribution to affordable housing to be in the form of a commuted payment, to support the delivery and/or procurement of affordable housing elsewhere;
3. affordable housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant;
4. the housing units provided in a mixed-use scheme are directly related to and necessary for the operation of that development.

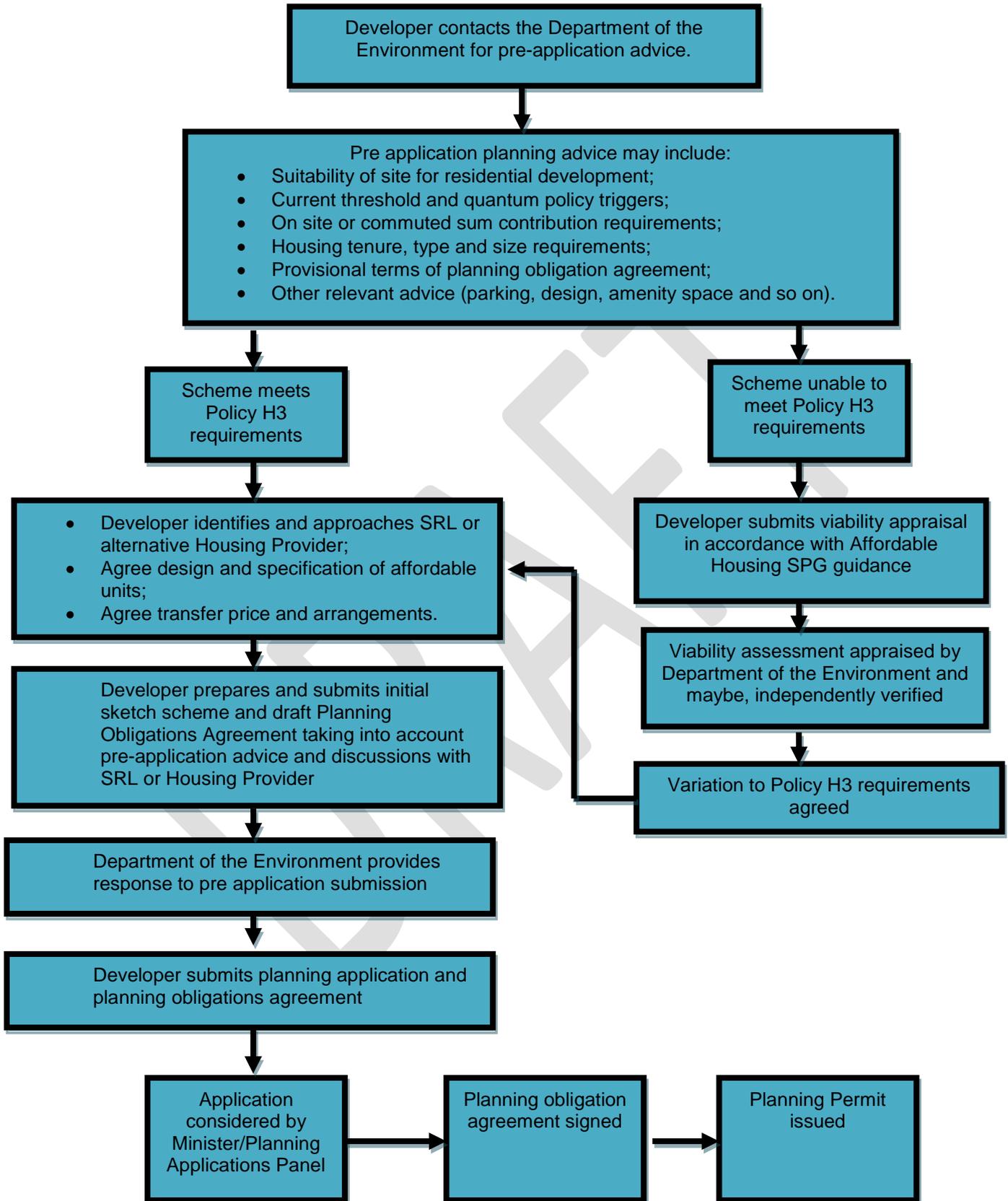
All development to which this policy applies will need to be the subject of a standard economic viability

assessment, to be provided and funded by the developer, as an integral element of a planning application, in accordance with supplementary planning guidance to be issued by the Minister.

It is intended that this policy mechanism for the delivery of affordable homes will be permanent and will be extended beyond the Plan period.

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Appendix 2 – Viability Assessment Process Flowchart



Appendix 3 – Sample Viability Assessment Pro Forma

Scheme information	
Applicant	
Pre Application or Planning Application Number	
Date this schedule completed	
Name of Scheme	
Address	
Postcode	
Scheme description	
Site size in hectares Gross site area	
Site size in hectares Net developable area	
Total residential units	
Description of any commercial and other uses	If the scheme contains development of a commercial nature (office, hotel etc.) in addition to residential development, the States will require additional information regarding those elements of the scheme. It is advisable that you contact them to discuss these requirements.
Residual land value of commercial/other uses if known	
Date site acquired	
Existing/alternative use value £	
Has the existing alternative use value been determined by a current independent valuation? (If yes please attach a copy)	

Timetable and phasing
<p>Please provide:</p> <ul style="list-style-type: none"> • proposed start date of construction (month and year); • proposed completion date of construction (month and year); • phasing information (if relevant); • completion timetable for affordable housing units if known.

Residential scheme mix
<p>Breakdown of units to be provided to include details of :</p> <ul style="list-style-type: none"> • property type e.g. terraced, detached; • net internal area (m²) of each property type; • number of bedrooms; • number of bed spaces; • number of storeys (if flats); • indication of whether units are proposed for open market sale or are to be affordable housing. <p>Please attach architect plans of the proposed scheme.</p>

Scheme revenue
<p>Please detail:</p> <ul style="list-style-type: none"> • current selling prices for each market unit by property type; • current agreed transfer price for affordable housing units – if known; • all other sources of funding and the amount (£) either on a per scheme or per unit basis.

Scheme costs	
Site investigation cost (£)	
Base build costs per m ² and source eg. BCIS	
Build costs that are external to the built form of the dwellings.	
Abnormal build costs Please provide full details and related costs per item	
Additional build costs associated with enhanced space, design or sustainability requirements	
Contingency (as a %)	
Developer profit (as a % of GDV)	
Planning gain contributions – please detail on a per item basis for the scheme as a whole (e.g. public art)	
Professional fees (as a % of build costs)	
Marketing and sales fees	
Interest charged	
Land assembly costs including SDLT	

Appendix 4 - Model planning condition for the provision of affordable homes

AFFORDABLE HOUSING – PROVISION OF

The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than X% of housing units/bed spaces;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider;
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

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Appendix 3 – The Housing Policy Development Board Report’s recommendation on an affordable housing contribution⁴

6.5. P3 - Affordable Housing Contribution

6.5.1. Policy Recommendation: Planning policy, including the 2021 Island Plan, should introduce an Affordable Housing Contribution to mandate a minimum proportion of new supply as affordable.

6.5.2. Context and Drivers

6.5.3. The 2011 Island Plan proposed the introduction of an Affordable Housing Contribution (known as policy H3), but it was not implemented as a result of developer viability concerns expressed during the consultation period. As a result, the Revised Island Plan 2011 rezoned additional land for affordable housing to create the supply of homes that would otherwise have been met through developer contributions.

6.5.4. The policy is used in the UK and is known as Section 106 (s106). In 2017/18 22,000 nil grant s106 affordable homes were delivered, which is equivalent to 10% of all new homes built or 47% of all new affordable homes built.

6.5.5. Research into the efficacy of the policy for use in Jersey has already been completed as part of the options considered in advance of the 2011 Island Plan¹³. Macdonald’s report specifies that the policy could work in practice as:

- Jersey has legislation which allows an owner of an interest in land to enter into an obligation to restrict development or to require it to be used in a specified way
- GoJ guidance on planning agreements sets out a range of uses to which a planning agreement may have obligations attached to it

6.5.6. Policy Description

6.5.7. When market housing is delivered, this policy is to introduce a planning requirement that a proportion of the housing is sold as affordable. This policy would ensure that where new housing is delivered, outside of areas that have been recently rezoned, a minimum proportion is delivered for 'Category A - Affordable Housing'.

6.5.8. This affordable housing may then be sold onto an appropriate affordable housing provider (i.e. Andium or the housing trusts) who will retain the home as affordable, either as a rented or intermediate homeownership product.

6.5.9. Key areas that the GoJ will need to determine include:

- The size or scale of development to which the Contribution will be applied
 - The 2011 Island Plan specifies that due to the numbers of small sites to be delivered over the plan period, the policy should apply to all sites of two or more homes. The Island Plan determined that the threshold would initially be for sites of six or more homes in the first year of its operation, incrementally reducing over time with the threshold decreasing to include sites with a capacity of two or more homes after year five.
- The proportion of affordable housing to be sought on those sites where it is

¹³ MacDonald, K. 'Achieving Affordable Housing as a Proportion of Private Housing Development Final Report', (2009)

applicable

- The percentage of affordable homes will need to be carefully balanced to ensure that the policy can result in a worthwhile amount of affordable housing, whilst not deterring landowners or developers from developing housing. The 2011 Island Plan suggested an initial contribution of 12.5% rising over 5 years to 20%, with the percentage of affordable housing rounded up to the nearest unit.
- The requirements for enforcement (time limitations, assurances that homes delivered are of a high quality, etc)
- The policy will also need to specify a mechanism by which developers undergo a viability assessment with GoJ to determine the final contributions. Developments with a limited capacity to deliver the affordable housing contribution in homes may be made in the form of a commuted sum payment to enable the delivery of affordable homes elsewhere.

6.5.10. Recommended Action: The GoJ should revisit previous feasibility assessments for an Affordable Housing Contribution with updated assumptions.

6.5.11. *Enforcing the Policy*

6.5.12. Planning permission will likely be contingent on the outcome of a viability appraisal process, e.g. the number of affordable homes that will be delivered on the site. GoJ Development Control will then consider these site-specific requirements in addition to standard planning rules when making planning decisions.

6.5.13. As specified in the rezoned housing policy, GoJ will ensure there is an enforcement mechanism in place to ensure that affordable properties are sold to appropriate organisations to manage and maintain them e.g. affordable housing providers. Since all property transactions are subject to legal approval in Jersey, such checks may be easily introduced to these processes.

6.5.14. Policy Objectives and Benefits

6.5.15. The objective of this policy is to capture some of the land value created by residential housing development to benefit the wider Jersey community through the provision of affordable housing.

6.5.16. In addition, the policy seeks to ensure, regardless of how a site is zoned, that all housing developments above an agreed threshold in Jersey contribute towards affordable housing development to address Jersey's affordability challenges.

6.5.17. This policy is unlikely to deliver additional housing on its own, but rather it is intended to deliver a greater proportion of affordable housing. Based on assumed private sector delivery numbers (circa. 2,400 over 10 years) and with a similar percentage contribution as intended for the former H3 policy (12.5% - 20% over 5 years), this policy could result in 400 more affordable housing units (in place of non-affordable housing).

6.5.18. There are four main benefits of the policy:

- New affordable housing supply provided by private market developers and maintained in perpetuity by affordable housing providers

6.5.19. Cost Implications

6.5.20. The policy will likely require some staff and administration costs, particularly relating to planning viability assessments, however, the capital costs of the programme would be nil. Ongoing administration costs would be low as Development Control already monitors and enforces sites to be developed in line with Housing Category planning obligations.

6.5.21. Challenges

6.5.22. Some of the challenges to this policy could be:

- That where land prices are high and the viability of residential development is marginal, or developers have purchased the land prior to the requirement being adopted, it could lead to viability issues meaning development is not brought forward
- Due to viability challenges, the policy may not deliver any new affordable supply
- Previously implementing this policy has been blocked by the development sector on the Island lobbying against the measure, which may create political challenges for GoJ
- Additional planning resources may be required to analyse and agree the level of contributions
- Planning gain works best in a buoyant market - in a downturn, affordable housing delivery through planning gain may be reduced as it is reliant on private residential development being brought forward

6.5.23. Policy Interactions

6.5.24. This policy intervention does not interact with other policy interventions in the package to deliver its objectives.