



# RTPI

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Email response sent to: [Taylorpwg@communities.gsi.gov.uk](mailto:Taylorpwg@communities.gsi.gov.uk)

Dear Ms Kelly,

**RESPONSE TO: Guidance for local authorities on incentivising landowners to bring forward additional land for rural affordable housing on rural exception sites**

Thank you for the opportunity to respond to the above consultation. The Royal Town Planning Institute (RTPI) is a membership organisation representing over 22,000 spatial planners. It exists to advance the science and art of town planning for the benefit of the public.

The RTPI fully accepts that there is a need to ensure that sufficient land is made available in rural communities for affordable housing, and we accept that there is a need for more to be done for the localities where at present little land is forthcoming. However, it is also of paramount importance that the general public do not perceive that proposed guidance simply provides a way for landowners to 'buy' a planning permission. It is also vital to maintain the key objective: to provide affordable housing generally and not solely for those with fortuitous links to a landowner. These considerations underpin our more detailed comments.

Please find the RTPI's responses to the formal consultation questions enclosed below.

If you require any further assistance, please contact Andrew Matheson, Network Manager on 01789 763006 or email [andrew.matheson@rtpi.org.uk](mailto:andrew.matheson@rtpi.org.uk).

Yours sincerely,

Matt Thomson  
**Acting Director Policy and Partnerships**  
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**Question 1: Is it helpful to have a guide to the maximum proportion of homes provided through this route? Is 33 per cent an appropriate level? (paragraph 12)**

A nationally set maximum per cent of homes in a development that a landowner can make referrals for would be welcomed. This would aid local authorities in ensuring landowners don't try to 'play the system' and help to preserve the essential integrity of the planning system as addressing community needs. In general a figure closer to 25% would be more helpful with such aims – always ensuring that a clear majority of houses will be available to those on the local authority waiting list – but 33% might be an absolute maximum in exceptional circumstances.

The principle of allowing negotiation is welcomed but the amount of referrals that are considered appropriate should be related to the need for affordable housing in the local area, size of site, number and type of dwellings proposed, the proportion of public funding which supports the scheme, and whether the referral rights are a one off or in perpetuity (see Q8 below).

Further, all potential residents including any employee or family member as a referee of the landowner should be registered with the local housing authority.

**Question 2: Are 100 per cent referrals appropriate for landowners who fund the development as well as providing the land? (paragraph 13)**

There would be a risk that with any such schemes, the diversity of occupants of the housing would be narrowed. If all occupants are nominated by the landowners, then potential occupants who might be considered 'unsuitable' by the landowner will not be able to access the housing. As a general principle, it is considered that 100 per cent referrals goes beyond what is considered necessary and reasonable to incentivise land release. It would undoubtedly reduce public confidence in the 'exception sites' route to providing additional housing to meet needs and bring, and be seen to bring, little public benefit.

There are existing mechanisms within the planning system for applications for single dwellings for local rural employees.

**Question 3: Is it appropriate for local authorities to cede control over nominations to landowners and/or housing associations, provided housing need and local connection criteria are being met? (paragraph 14)**

The overriding principle must be that the system is transparent and open to retain public confidence.

**Question 4: Do you consider that the draft guidance strikes the right balance between local connection and housing need in setting out how landlord referrals should be handled and prioritised, including the cascade mechanism? (paragraph 16)**

PPS3 explicitly requires an existing local connection. A Planning concern is that paragraph 16 of the guidance appears to introduce a further tier to the PPS3 paragraph 30 criteria of existing family or employment connection by seeking to differentiate between 'genuine reason' and 'strong local connection'. It is far from clear who can or will assess this?

**Question 5: Although the draft guidance recommends that the referral mechanism should be subject to the requirements of a Section 106 agreement, do you consider that any other controls or monitoring procedures should be put in place to ensure transparency and fairness (e.g. through publishing the criteria)? (paragraph 16)**

Para 20 in the draft guidance says 'It is important that the housing association, managing landowner or local authority puts in place checks to ensure that the 'referrals' system is not open to abuse...' The guidance must therefore state where the responsibility lies for ensuring the checks are in place. Transparency and a clear mechanism in dealing with referrals is vital and so the criteria must be published.

**Question 6: Are any verification checks carried out by the local authority likely to have a material resource implications for local authorities? (paragraph 18)**

Provided any household is referred via normal housing register waiting lists then there should be no additional resource implications for Local Authorities or RSLs.

**Question 7: Should the landowner be entitled to a referral to the next property, if an employee who has been given the tenancy through a referral ceases to be employed but remains in the original property? (paragraph 22)**

As a matter of principle no, because this would exceed any stated initial landowner referral percentage, potentially reducing the public benefit from the agreed arrangement. Where there are just a small number of properties then all the houses could fairly quickly become occupied by, for example, current and retired workers on the landowner's estate. However, in many cases, the former employee would be eligible for being housed in one of the properties not subject to landowner referral, and consideration should be given as to whether and how, subject to the prevention of abuse, nomination procedures can be formulated to avoid, where appropriate, unreasonably displacing an otherwise eligible person or family from their home.

**Question 8: Should such rights be personal to the landowner. Accordingly, if the landowner sells the land, the referral rights would not pass with the land to the new owner. Or should these rights rest with the land (i.e. as with the Section 106 agreement) and be passed with the land if the landowner decides to sell? (paragraph 23)**

In line with the general principles of the planning system, which controls the use of land and is not in general related to particular individuals, any rights and obligations should rest with the land. However, the issues this raises are complex with regard to the relationship between the landowner, the estate and those benefitting from a referral, whether they are estate workers or family members. Within the context of a general principle that rights and obligations should rest with the land, the manner in which this is codified will be dependent on the circumstances particular to the case – further attention needs to be paid to the details of this. Certainly, once the local housing is in place then landowners' referral rights should not be extended in such a way that the scheme provides less public benefit than was first envisaged.

**Question 9: Should landowner referral rights be restricted to homes provided for rent or should they also be available for low cost home ownership sale? (paragraph 25)**

The definition of affordable housing set out in PPS3 includes social rented housing and intermediate affordable housing. Assuming that "low cost home ownership sale" is a subset of "intermediate affordable housing", as a matter of principle both types of housing should be included (in order to be consistent with PPS3 definitions, this scheme should exclude "low cost market" housing). However, in most circumstances the LCHO referrals will necessarily be once-and-for-all and this must be factored into the benefits equation. Each individual initiative/proposal should be 'balanced' on a variety of factors relating to the number of units that might be provided on a site, the established local housing need, public subsidy, private interests retained, and financial appraisals.

**Question 10: What should the Section 106 agreement incorporate? For instance should it, as well as eligibility criteria, detail the mechanisms by which the homes are allocated, for example how applications should be prioritised? (paragraph 26)**

The Section 106 Agreement should have referral, nomination agreements included and a basis for their future review. This again should help to assure the public benefit element of the proposal. The guidance might helpfully include some standard clauses to be fleshed out locally for each proposal.

**Question 11: If landowners are to retain the freehold interest, and grant a lease to a housing association or other body for the development of affordable housing, do you envisage any problems caused by this arrangement? (paragraph 35)**

The RTPi has no comment on this matter.

**Question 12: What are your views on what the minimum term of the lease should be? (paragraph 36)**

The RTPi has no comment on this matter.

**Question 13: Do you consider that the draft guidance strikes the right balance between ensuring value for money for public expenditure on housing, and the need to provide effective incentives for landowners to release land for affordable housing?**

Subject to the caveats set out above, we believe that central advice can set the broad parameters within which any incentive scheme could be made appropriate to local circumstances. The guidance must, however, make it clear that any scheme must primarily provide housing for local residents, that landowner referrals are limited, that those referrals must meet all the criteria any 'general' resident must meet, that the whole process is transparent and not open to abuse, and that the scheme meets all the general planning criteria for exception sites.

**Question 14: Does the draft impact assessment reflect the benefits and costs to local authorities, housing associations and landowners? Are there other costs and benefits that can be included?**

The impact assessment seems reasonable although costs are likely to be measured in officer time rather than public subsidy.