

Sinead McEvoy

From: Charles O'Neill [REDACTED]
Sent: 22 April 2020 08:39
To: DevelopmentPlan@midulstercouncil.org
Subject: RE: Local Development Plan

Dear Sinead

Thanks for your email in relation to the LDP Draft Plan Strategy and for the confirmation that the contents of the document are unchanged.

I confirm that we wish our original representation to be considered as our representation.

Kind regards

Charlie


 **Charles O'Neill**
Director of Product Development

[REDACTED]
A: Murray House, Murray Street, Belfast, BT1 6DN

Co/ownership



Winner of CIH 2020 Housing Awards Team of the Year

 **From:** DevelopmentPlan@midulstercouncil.org <DevelopmentPlan@midulstercouncil.org>
Sent: 21 April 2020 10:45
To: Charles O'Neill [REDACTED]
Subject: RE: Local Development Plan

Dear Mr O'Neill,

Thank you for your email.

The reconsultation is being undertaken due to a procedural error in the original consultation. The contents of the draft Plan Strategy are unchanged. The document being re-consulted on is exactly the same as originally published in February 2019.

If you submitted a representation to the original consultation then you will have been sent a letter regarding the re-consultation period. This letter was sent on 12th March and contained a pro forma asking which of the following options you would like to pursue in relation to your representation. You are invited to either;

- a) confirm that you wish your original representation to be considered as your representation
- b) confirm that you wish to amend or add to your original representation
- c) confirm that you wish for your original representation to be withdrawn and that you no longer wish to make a representation.

You can indicate which of these options you wish to pursue by reply to this email, or alternatively you can reply to the re-consultation letter, referred to above using the pro-forma provided.

This consultation period was due to run until 21st May but in light of the current situation being faced by us all regarding COVID-19, it has been decided to extend this period of consultation. We do not yet have an agreed date for the new re-consultation deadline, once we do we will publicise the extended date.

Should you require any further information please do not hesitate to get in touch.

Kind regards
Sinead McEvoy

Planning Department
Mid Ulster District Council
Magherafelt Office
50 Ballyronan Road
Magherafelt
Co Derry
BT45 6EN

Tel: 03000132132

Email: [REDACTED]



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

From: Charles O'Neill [REDACTED]

Sent: 16 April 2020 09:00

To: DevelopmentPlan@midulstercouncil.org

Subject: Local Development Plan

Dear Sir/Madam

I am aware that you will be reconsulting on your Local Development Plan Draft Plan Strategy. We have submitted comments in the previous consultation. Could I just check if the LDP draft plan strategy has changed in any way or is it the same document as previously consulted on. If this is the case do you wish for any comments to be resubmitted to yourselves.

I would be grateful if you could let me know in due course.

Kind regards

Charlie

Charles O'Neill
Director of Product Development



A: Murray House, Murray Street, Belfast, BT1 6DN

Co/ownership



Winner of CIH 2020 Housing Awards Team of the Year

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Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Local Development Plan
Representation Form
Draft Plan Strategy**

Ref:
Date Received:
(For official use only)

Name of the Development Plan Document (DPD) to which this representation relates

Representations must be submitted by 4pm on 19th April 2019 to:

Mid Ulster District Council Planning Department
50 Ballyronan Road
Magherafelt
BT45 6EN

Or by email to developmentplan@midulstercouncil.org

Please complete separate form for each representation.

SECTION A

1. Personal Details

2. Agent Details (if applicable)

Title	<input type="text" value="MR"/>	<input type="text"/>
First Name	<input type="text" value="CHARLES"/>	<input type="text"/>
Last Name	<input type="text" value="O'NEILL"/>	<input type="text"/>
Job Title (where relevant)	<input type="text" value="DIRECTOR OF PRODUCT DEVELOPMENT"/>	<input type="text"/>
Organisation (where relevant)	<input type="text" value="CO - OWNERSHIP"/>	<input type="text"/>

Address Line 1	MURRAY HOUSE	
Line 2	MURRAY STREET	
Line 3	BELFAST	
Line 4		
Post Code	BT1 6DN	
Telephone Number	<input type="checkbox"/>	
E-mail Address	<input type="checkbox"/>	

SECTION B

Your comments should be set out in full. This will help the independent examiner understand the issues you raise. You will only be able to submit further additional information to the Independent Examination if the Independent Examiner invites you to do so.

3. To which part of the DPD does your representation relate?

- (i) Paragraph _____
- (ii) Objective _____
- (iii) Growth Strategy/
Spatial Planning Framework _____
- (iv) Policy _____
- (v) Proposals Map _____
- (vi) Site Location _____

4(a). Do you consider the development plan document (DPD) is:

Sound

Unsound

4(b). If you consider the DPD to be unsound, please identify which test(s) of soundness your representation relates, having regard to Development Plan Practice Note 6 (available on the Planning Portal Website at https://www.planningni.gov.uk/index/advice/practice-notes/development_plan_practice_note_06_soundness_version_2_may_2017_-2a.pdf.pdf).

Soundness Test No.

5. Please give details of why you consider the DPD to be unsound having regard to the test(s) you have identified above. Please be as precise as possible.

If you consider the DPD to be sound and wish to support the DPD, please set out your comments below:

PLEASE REFER TO THE ATTACHED SUBMISSION,

(If not submitting online and additional space is required, please continue on a separate sheet)

6. If you consider the DPD to be unsound, please provide details of what change(s) you consider necessary to make the DPD sound.

Please note your representation should be submitted in full and cover succinctly all the information, evidence, and any supporting information necessary to support/justify your submission. There will not be a subsequent opportunity to make a further submission based on your original representation. After this stage, further submissions will only be at the request of the independent examiner, based on the matters and issues he/she identifies at independent examination.

(If not submitting online and additional space is required, please continue on a separate sheet)

7. If you are seeking a change to the DPD, please indicate if you would like your representation to be dealt with by:

Written Representation Oral Hearing

Please note that the Department will expect the independent examiner to give the same careful consideration to written representations as to those representations dealt with by oral hearing.

Signature: [REDACTED]

Date: 03/04/2019



Co/ownership

**Submission to Mid Ulster Council's Consultation on its Local Development
Plan 2030 Draft Plan Strategy issued in February 2019**

by

Northern Ireland Co-Ownership Housing Association Limited
Murray House
Murray Street
Belfast
BT1 6DN

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Nothing in this document or any part thereof shall constitute any intention to create legal relations with any of the parties named herein, nor shall it constitute any contract or other relationship of any kind between such parties. The views herein contained are those of Co-Ownership and are not meant to be relied upon, interpreted or construed as a definite statement of the law.



EXECUTIVE SUMMARY

1. Co-Ownership welcomes the opportunity to respond to Mid Ulster's consultation on its Local Development Plan 2030 Draft Plan Strategy issued in February 2019.
2. A key element is the definition of affordable housing in the draft strategy. This refers to the definition of affordable housing which is contained in the current Strategic Planning Policy Statement (SPPS) issued by the then Department for the Environment. In the SPPS affordable housing is defined as including social rented and intermediate housing.
3. The definition of social housing is widely accepted as housing provided at an affordable rent by the Northern Ireland Housing Executive (NIHE) or a registered housing association. It is provided to households which are in need and is offered under the common selection scheme. The definition of intermediate housing is defined to mean shared ownership.
4. The Draft Strategy acknowledges a definition of intermediate housing which reflects the products available at the time the SPPS document was written. Over time, new intermediate housing products may be developed. Therefore, it is important that the definition may be expanded to support helping eligible households into intermediate housing. For instance, it is important that a definition of intermediate housing would include products like Rent to Own.
5. Reference is made in the draft strategy to a developer contribution in respect of social housing only. Co-Ownership is of the view that this should be extended to mean affordable housing i.e. social and intermediate housing.
6. It is beneficial to recognise that there are other target groups for affordable housing, other than first time buyers. These can include those returning to the market, active older people, those with disabilities and potentially other groups in need of such housing. For instance, suitable affordable housing for older people also needs separate consideration as the barriers are slightly different - a lack of suitable accommodation and being a generation that is asset wealthy but cash poor.
7. At first glance it may appear that a section 76 agreement is a mere planning tool. However, there are a number of interested parties some of whom need to be involved and have an input into the negotiations under these agreements. It is important to note that each of these will be coming from different perspectives and so there needs to be an integration of purpose in the negotiation process.
8. The tenure mix of the affordable housing on the development is vital. It is important to know how many of the homes will be used for shared ownership and how many will be used for social housing. There may also need to be some flexibility given to the housing association involved as to the mix of homes which they will purchase from the developer. Careful consideration should be given to issues such as pepper-potting of the social and affordable homes. Similarly, the design specification of the units is important. The homes for shared ownership



and social housing should be to a sufficient standard i.e. they should not have a lesser specification than the market housing. It is important that the homes are appealing to customers and are homes that they would want to live in. For instance, it may well be that the affordable homes should conform to lifetime homes standard (for social housing) or to current industry standards.

9. Co-Ownership believes that any new scheme designed to increase the supply and provision of affordable housing in Northern Ireland should have the following attributes:
 - Be uniform and consistent in approach
 - Provide adequate security for all the lenders involved
 - Provide adequate security for the public fund provider
 - Be easily understood by all clients and other stakeholders in the field
 - Provide value for money
 - Be able to react and adapt quickly to the demands of the market in which it operates
 - Be sustainable in the market place
 - Be Client focused
10. Co-Ownership is uniquely placed to play an expert enabling role in the delivery of more affordable homes through section 76 agreements throughout the process. We look forward to continuing to work with the Council in exploring and developing new and innovative schemes such as section 76 agreements to enhance the provision of affordable housing in the province.

INTRODUCTION

11. This paper is submitted on behalf of Northern Ireland Co-Ownership Housing Association Limited (Co-Ownership) of Murray House, Murray Street, Belfast, BT1 6DN by way of response to Mid Ulster's consultation on its Local Development Plan 2030 Draft Plan Strategy issued in February 2019.

Background to Co-Ownership

12. Co-Ownership is Northern Ireland's regional body for shared ownership and the organisation which runs Co-Ownership. It is an Industrial and Provident Society, a registered housing association regulated by the Department for Communities (DfC) and a charity registered with the Northern Ireland Charities Commission.

Our aim

13. The main aim of Co-Ownership is to promote and sustain the concept of shared ownership in Northern Ireland mainly as a means of facilitating home ownership. For over 40 years it has been the cornerstone of government's affordable housing initiative, assisting mainly first-time buyers and also returning home buyers in Northern Ireland to get on to the housing ladder. It has been very successful to date, having helped to provide over 28,000 homes of which over 19,500 households have moved on from Co-Ownership.



Co-Ownership product

14. Under the Co-Own product, a customer buys a share in a home, depending on how much they can afford. This is between 50-90% of the purchase price. Co-Ownership buys the remaining share in the property and the customer can increase their share at any stage until they own it outright. There can be several reasons why someone who aspires to home ownership cannot achieve this. It could be because of obstacles like a lack of deposit or affordability issues. Co-Ownership can help such persons.

Rent to Own product

15. Co-Ownership launched our Rent to Own product in April 2016. Operated by our subsidiary, OwnCo Homes Limited, this is a product for people who aspire to buy a home but aren't yet ready to do so. Since 2016 we have helped 47 households move into new build homes, which they rent for up to three years with an option to buy the home after one year.

INTRODUCTORY COMMENTS

16. The purpose of this paper is to comment on the proposals outlined in the Local Development Plan Draft Plan Strategy on how the use of planning conditions or planning agreements under section 76 of the Planning Act (NI) 2011¹ can be used to increase the supply of affordable housing in Northern Ireland and to examine the role which Co-Ownership can play in this. It will consider aspects of the framework under which section 76 planning agreements operate together with a comparison of the schemes in England. There are a number of parties who have a vital input into planning agreements. Their roles and perspectives will be considered. Some of the issues which may arise in the drafting of section 76 planning agreements will be explored, learning from the experience of section 106 agreements in England. Finally, the input of Co-Ownership Housing® into section 76 planning agreements will be examined.

THE DEFINITION OF AFFORDABLE HOUSING

17. Co-Ownership notes that reference is made in the Plan Draft Strategy to affordable housing and social housing in different contexts. For instance, in paragraph 7.18 reference is made to affordable/social housing provision and the definition contained in the SPPS document.
18. The definition of affordable housing is contained in the current Strategic Planning Policy Statement (SPPS) issued by the then Department for the Environment. In the SPPS affordable housing is defined as including social rented and intermediate housing. This can be summarised as follows:

¹ Formerly under article 40 of the Planning (NI) Order 1991 (as amended).

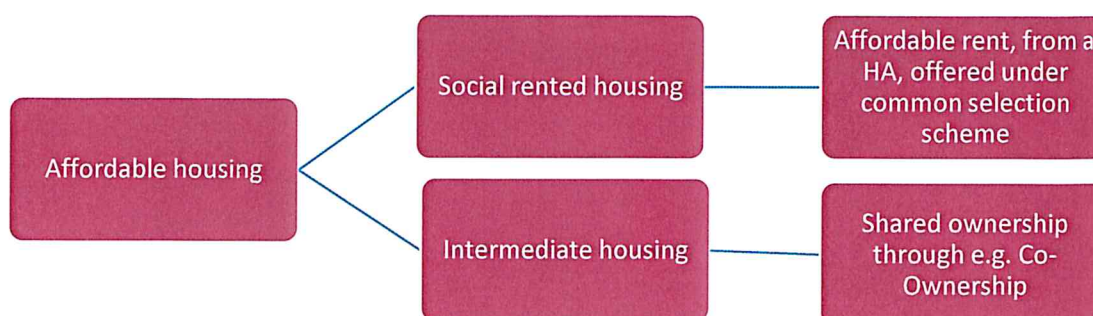


Figure 1 – Affordable Housing Definition

Social housing

19. The definition of social housing is widely accepted as housing provided at an affordable rent by the Northern Ireland Housing Executive (NIHE) or a registered housing association. It is provided to households which are in need and is offered under the common selection scheme.

Intermediate housing

20. The definition of intermediate housing, as used in the SPPS consists of shared ownership provided through a registered housing association (e.g. Co-Ownership) and helps households who can afford a small mortgage, but that are not able to afford to buy a property outright.

Provision of mixture of house types and tenures

21. In paragraph 7.26 of the draft strategy reference is made to a developer contribution in terms that:
- “in residential developments of 50 units or more or on sites of 2 hectares and over, social housing should be provided at a rate of not less than 25% of the total number of units. This means that this policy will apply where a need for social housing has been identified by the relevant strategic housing authority until such times that the Local Policies Plan brings forward sites with key site requirements addressing social housing needs”.
22. Co-Ownership notes that reference is made to social housing only in paragraph 7.26 of the draft strategy. This means that the developer contribution contained in the draft relates purely to the delivery of social homes. It will not include intermediate housing such as that provided by Co-Ownership. Co-Ownership would be of the view that the definition of social housing in paragraph 7.26 should



be extended to cover all types of affordable housing including intermediate housing and social housing.

23. The concept of developer contributions for affordable housing should not be considered in isolation from contributions for other aspects such as infrastructure provision. It is essential in a viability study that all contributions are taken into account to assess whether an individual development is feasible.
24. It is important, for the reasons given in this paper, that the Council devotes appropriate resources to the negotiation of such planning agreements given its role to co-ordinate the different organisations involved so that the agreements are negotiated and implemented in a timely manner.

Development of new products

25. The Draft Strategy acknowledges a definition of intermediate housing in the current SPPS. Over time new intermediate housing products may be developed. Therefore, it is important that the definition may be expanded to support helping eligible households into intermediate housing. As new intermediate housing products are developed, they need to be recognised as falling within this category. For instance, it is important that a definition of intermediate housing would include products like Rent to Own.
26. It is beneficial to recognise that there are other target groups for affordable housing, other than first time buyers. These can include those returning to the market, active older people, those with disabilities and potentially other groups in need of such housing. For instance, suitable affordable housing for older people also needs a separate consideration as the barriers are slightly different - a lack of suitable accommodation and being a generation that is asset wealthy but cash poor.
27. Critical to a definition of affordable housing is that it should be 'suitable' affordable housing. There may be properties in an area which are of a lower value and would therefore otherwise be affordable but are not suitable for the customer. This could be due to the size of the dwelling or the household composition for instance.
28. *Needs assessment* – It is important that the actual affordable housing need in the area in which the development is located is established. Ideally this will have been undertaken prior to negotiations being entered into in relation to a section 76 agreement. In England policies in relation to affordable housing are usually found in local development framework plans and other documents. We note that the Draft Strategy is at a relatively high level. Further guidance may need to be produced in the future in relation to the models available to deliver affordable housing, as it is important for all interested parties that there is clarity as to what is expected from them.

ISSUES TO BE CONSIDERED IN SECTION 76 PLANNING AGREEMENTS

29. It is important that careful thought is paid to the contents of a planning agreement where they are used. Seeking to learn lessons from the operation of section 106 agreements in England, some of the matters which need to be considered are set out and commented on below:



- Obligations should fall within the planning agreement
 - Amount of affordable housing
 - The tenure mix
 - Location of the affordable housing units
 - Specification of the housing units
 - Standard of the units
 - The timing of the development
 - Service charges
 - Cascade mechanisms
 - Mortgagee in possession clauses
 - Continuity of occupation
 - Title to the property
 - Commuted payments
 - Effect on a section 76 planning agreement of an amended planning application
30. A planning agreement is a legal document which will bind the land and the developer and his or her successors in title. However, the obligations of the developer should be drafted so that they fall within section 76 of the Planning Act (NI) 2011. If any obligations fall outside the scope of the agreement there may be difficulties in enforcing the obligations against the developer's successors and indeed against the original developer. It is important that a standard template agreement is developed and that any requirements in relation to section 76 agreements for affordable housing are commensurate with the scale of the development.
31. The tenure mix of the affordable housing on the development is vital. It is important to know how many of the homes will be used for shared ownership and how many will be used for social housing so that the developer knows how many of each he or she is required to provide. However, there may also need to be some flexibility given to the housing association involved as to the mix of homes which they will purchase from the developer.
32. It is generally thought preferable that shared ownership units are pepper-potted throughout the development so that externally a shared ownership unit is no different from a market housing unit of the same specification. However, there is some thought that it is better if social housing units are clustered together so that it is easier and more cost effective for the housing association to manage. This can be especially so if the social housing is in the form of a block of apartments. Therefore, the Draft Strategy should give the appropriate flexibility in relation to pepper-potting in a development. It would be better to state that where possible and practical the affordable housing units should be dispersed throughout the development.
33. The design specification of the units is relevant. The shared ownership properties should not be built such that they have a market value which is not affordable.² Similarly the cost of a social housing unit should be affordable. Having said this, there may be situations where the housing need in the area is such that there is need for 4 bedroom units rather than three and even though the units will be more expensive, 4 bedroom units should be built.

² For instance, if the units were outside Co-Ownership Housing's current value limits.



34. The homes for shared ownership and social housing should be to a sufficient standard i.e. they should not have a lesser specification than the market housing. It is important that the homes are appealing to customers and are homes that they would want to live in. For instance, it may well be that the affordable homes should conform to lifetime homes standard (for social housing) or to current industry standards.
35. The timing of the development is crucial. This involves several elements.
- (a) the developer should be required to commence the development within a specified period of time and ensure that there is a proper supply of housing coming on stream within a known period of time.
- (b) at least some of the shared ownership and social housing units should be started within a reasonable period of time. There is an understandable tendency for developers to complete the market housing units before the affordable housing. This can be due to cash flow requirements. The developer may have financed the development with a loan from a lender and may need to repay the loans from the sale of individual units. However, from an affordable housing perspective there is usually a requirement in a planning agreement that not more than x number of the market housing units shall be occupied until all or y % of the shared ownership units/ social housing units have been constructed in accordance with the planning agreement.
36. As the obligations in a planning agreement bind the land and also the successive owners of the land it is important that mechanisms are put in place to release the end user (the ultimate owner) from these obligations. For instance, if a shared ownership property has been built in the third year of the development yet the entire development has not yet been constructed it is appropriate for the Council to confirm: that the development has been started within any specified period. This is important as it goes to the marketability of the property. Of course, the Council would be in a position to reserve its rights of action against the developer should the development not be completed in accordance with the requirements of the section 76 agreement.
37. Similarly, if the planning agreement states that not more than X of the market housing units should be occupied until the shared ownership/ social housing units have been constructed then a purchaser of a market housing unit will wish to have written confirmation from the Council that this clause of the agreement has been complied with. It is therefore important when the planning agreement is negotiated that procedures are put in place to monitor the development so that it proceeds in the manner envisaged in the agreement. Furthermore, this will mean that any confirmations required in respect of the progress of the development can be given promptly.
38. The issue of service charges is a complex one. Service charges are charges which are usually paid to a management company for services such as insurance, maintenance and upkeep of common parts. They are usually encountered in apartment units and are increasingly to be found in developments of houses where there is an obligation to maintain open spaces. A unit which is otherwise affordable can become unaffordable if there is an abnormally high service charge attached to it. Indeed, these are something which local authorities



in England are specifically asked to consider.³ Therefore a clause in the planning agreement should state that all service charges should be fair and reasonable.

39. The inclusion of cascade mechanisms in planning agreements is important. A cascade is a mechanism incorporated into planning agreements which sets out options for varying the affordable housing provision in terms of quantity, tenure and mix. For instance, a planning agreement may provide that a landowner is required to transfer constructed shared ownership units to Co-Ownership and social housing units to a housing association on certain specified terms. The exact mix of the housing may have to be flexible depending on the circumstances.
40. Cognisance must also be taken of the fact that the lender may have a mortgage secured on the development land. Therefore, the lender will wish to have the ability to sell the property on the open market to obtain the best price reasonably achievable should the developer default on mortgage payments. Yet, attached to the land is a planning agreement which states that some of the housing units on the development can only be sold in a certain way e.g. through shared ownership or to a social housing provider. Therefore it is common for a lender to insist that a clause be inserted providing that if the lender seeks to sell pursuant to any default on the terms of a mortgage the lender shall give notice of its intent to dispose and thereafter if arrangements can be made within a specified (and usually short) time to secure the transfer of the units in such a way as to safeguard them for affordable housing then the lender will co-operate with such arrangements. If not, then the lender will be able to sell the units free of the restrictions set out in the planning agreement. Such a clause is important to ensure that a developer's lender participates in the process as otherwise the entire scheme may not be viable from a developer's perspective.
41. It is important that at the outset of negotiations with a developer under a proposed planning agreement that due diligence is undertaken on the landowner's title so that any issues are resolved before the planning agreement is concluded to minimise delays at a later stage.
42. If in a particular area there is no established need for affordable housing then as a last resort if the developer can be compelled to make a commuted payment instead, it is important that such a payment is ringfenced for housing and is not treated as part of general exchequer funds.
43. It is important that the overall position of the developer in relation to developer contributions is considered. This is especially important if the developer has to contribute to infrastructure such as roads and sewers for the development as well as affordable housing on the site.
44. Thought should also be given to the effect on a planning agreement of the developer applying for an amended planning permission for the development. Care should be taken that there is no adverse effect on the planning agreement.
45. The benefit of the input of Co-Ownership into planning agreements and any pilot schemes as a prelude to their introduction is its experience and credibility in dealing with key stakeholders such as developers, lenders, financial advisers, estate agents and the public at large. This makes it ideally placed to be an integral part of this new venture given its forty-year track record and its

³ DCLG publication "Affordable Housing: Policy Objectives", November 2006.



occupation of a unique place as interface between the public and private sectors in housing in Northern Ireland. Furthermore, in the purchase of new build properties from builders for equity sharing purposes, it has experience of the valuation and legal issues which arise in respect of properties to be purchased. This experience has been developed by its own in-house valuation and legal teams in conjunction with its panel of external valuers and solicitors. Co-Ownership Housing is also aware of the needs and requirements to attract private funding from an applicant's lender.

CO-OWNERSHIP'S INVOLVEMENT IN SECTION 76 PLANNING AGREEMENTS

46. Turning to the future, Co-Ownership Housing believes that any new scheme designed to increase the supply and provision of affordable housing in Northern Ireland should have the following attributes:
 - Be uniform and consistent in approach
 - Provide adequate security for all the lenders involved
 - Provide adequate security for the public fund provider
 - Be easily understood by all Clients and other stakeholders in the field
 - Provide value for money
 - Be able to react and adapt quickly to the demands of the market in which it operates
 - Be sustainable in the market place
 - Be Client focused
47. The use of Co-Ownership as a delivery mechanism for shared ownership under section 76 agreements can deliver in greater numbers of new build homes. It is important to consider the existing property market in tandem with the new build market as to focus on one to the detriment of the other may artificially distort the housing market.
48. Co-Ownership fulfils a key role in facilitating liaison between applicants and developers. It frequently provides information sessions to the public, community groups and other stakeholders, together with an education and marketing support service for individual builders/developers, estate agents and financial advisers. This ongoing liaison and support ensures a consistent and effective service for potential Co-Ownership clients provincewide, and will enhance the market appeal and appropriate uptake of the affordable housing provided.
49. If the main aim under section 76 agreements is to ensure an increase in the supply of affordable housing in Northern Ireland it is important that the timing of developments is established so that Co-Ownership Housing can profile any expenditure involved.

CONCLUSION

50. Co-Ownership is uniquely placed to play an expert enabling role in the delivery of more affordable homes through section 76 agreements throughout the process. It has demonstrated the capacity to identify what is needed to take the process



forward as appropriate in liaison with the various interested parties, and to deliver a consistent product.

51. Co-Ownership Housing looks forward to continuing to work with the Council in exploring and developing new and innovative schemes such as section 76 agreements to enhance the provision of affordable housing in the province.